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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.2896/2003

This the 17th day of November, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

Smt. Sonwati W/O Kishan Lal,
Ex-Mazdoor,
R/O Vill. Babugarh, P.O. Babugarh,
Tehsil-Hapur, Distt. Ghaziabad. ... Applicant

(By Shri V.P.S.Tyagi, Advocate)

versus

1. Union of India through
Secretary, Ministry of Defence,
South Block, New Delhi.
2. Engineer-in-chief,
Army Head Quarters, Karhmir House,
DHQ P.O. New Delhi-110011.
3. Chief Engineer (EiC2) HQRS,
Central Command, Lucknow.
4. Chief Engineer, Bareilly Zone,
Sarvatara Bhawan, Railway Road,
Bareilly Cantt-243001.
5. Commander Works Engineer,
29-J, The Mall,
Meerut Cantt. ... Respondents

(By Shri R.N.Singh, Advocate)

ORDER (ORAL)

Applicant's husband Shri Kishan Lal died in harness on 10.7.1998 while serving as Mazdoor (Group 'D') in the organisation of GE(N) Meerut. It is claimed that pursuant to the recommendations of CWE, Meerut, on consideration of applicant's case sanction for appointment of the applicant on compassionate ground was accorded by the Chief Engineer, Bareilly Zone, Bareilly vide Annexure A-3 dated 30.5.2002. After completion of all requirements such as

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medical examination and furnishing of certificates etc., applicant joined duty on 3.7.2002. However, after just four days of her joining duties, she was denied continuance w.e.f. 7.7.2002 on verbal orders.

2. The learned counsel of the applicant pointed out that while appointment order of the applicant annexure A-4 dated 18.6.2002 promised probation for a period of two years and contained the condition that the temporary appointment of the applicant may be terminated at any time by one month's notice given by either side, no such notice was issued by the respondents. The learned counsel also relied upon order dated 25.7.2003 in OA No.2140/2002 :

Karamvir Singh & Ors. v Union of India (Annexure A-6) in which in an identical case it was held as follows :

“10. A right which had been vested in the applicants the Department is not justified to take away the right by withdrawing the letter of appointments. I find that the appointments offered to the applicants had become complete when all the element of appointment referred in above the judgment of Tagin Litin (supra) as quoted above has been completed in this case. Decision had been taken by the competent authority and the same has been incorporated in the order of appointment and the order communicated to the applicants and were directed to furnish medical fitness. They have furnished medical certificate to the Department. All the required criteria had been fulfilled for appointment to become effective. Nothing remain to be done on the part of department. Assuming the factual revised policy had been received by the department, that cannot be taken into consideration for cancellation the appointment nor will reduce the number of vacancies which were available on the basis of revised policy appointment granted cannot be cancelled. Moreover, it can have prospective effect. So once right had already been vested to the applicants as they had been communicated the appointment letters which was issued on the basis of the appointment order made by the competent authority. Non-permitting of the authority to perform their duty or canceling the appointments is illegal and amounts to termination of service which is also against the law laid down (supra).

11. In view of the above circumstances, I am of the considered view that the cancellation of appointment by the respondents is totally illegal and their action for not permitting to perform duty cannot be justified. Accordingly OA is allowed and respondents are directed to permit to perform their duties as they had already been communicated the appointment letters which had become effective. Respondents are further directed to allow the applicants to perform their duties forthwith. No costs.”



3. On the other hand, respondents have not been able to establish that any notice was issued to the applicant for termination of her services. The facts of present case are identical with those of the case of *Karamvir Singh* (supra). The ~~are not~~ observations and ratio of that case ~~are~~ are not squarely applicable to the facts of the present case. Accordingly, this OA is allowed with the same directions to the respondents.

V.K. Majotra
(V.K. Majotra)
Vice-Chairman (A)
17.11.04

/as/