

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/01199/2018

Jabalpur, this Tuesday, the 3rd day of December, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Smt. Ghisi Devi, aged about 55 years,
Wd/o late Shri Babulal Malviya,
R/o Q.No.II/8, I.I.S.S., Residential Campus,
Nabibagh, Berasia Road, Bhopal (M.P.),

-Applicant

(By Advocate –**Shri Sanjay Singh**)

V e r s u s

1. Indian Council of Agricultural Research, Through its Secretary,
Krishi Anusandhan Bhavan-II, Pusa, New Delhi

2. The Director, Indian Institute of Soil Science,
Nabibagh, Berasia Road, Bhopal (M.P.), Pin-462038

3. Administrative Officer, Indian Institute of Soil Science,
Nabibagh, Berasia Road, Bhopal (M.P.) - **Respondents**

(By Advocate –**Shri S.K. Mishra**)

O R D E R (Oral)

By Navin Tandon, AM:-

The applicant is aggrieved by the order dated 29.11.2018 (Annexure A/6) passed by the respondents whereby her services has been terminated for not acquiring the minimum education qualification. She had got this job on compassionate appointment.

2. The applicant has made the following submissions:-

2.1 Her husband Shri Babulal Malviya died in harness on 06.10.2010 while working as Watchman with respondent No.2.

2.2 Respondents offered her appointment on 29.04.2011 as a trainee for a period of 6 months from the date of her joining. She was also asked to submit educational certificate prescribed under the Recruitment Rules by 31.10.2011. Since she could not submit the educational qualification certificate, she was discontinued from service on 09.11.2011.

2.4 She approached this Tribunal in O.A. No.618/2012 against the proposed action to discontinue her from service. The Tribunal vide its order dated 19.09.2013 (Annexure A/1) allowed the O.A. by granting the benefit of Para 2 of the DoPT's OM No.F.No.14014/2/2009-Estt.(D) dated 03.04.2012.

2.5 In compliance of order of this Tribunal, the applicant was reappointed as trainee on 30.05.2014 (Annexure A/3)

wherein she was granted 5 years' time for acquiring minimum education qualification (matriculation or equivalent pass OR ITI pass).

2.6 She was advised vide order dated 22.04.2016 (Annexure A/4) and 18.05.2016 (Annexure A/5) to complete the requisite qualification within 5 years.

2.7 Vide order dated 29.11.2018 (Annexure A/6) the services of the applicant have been terminated w.e.f.30.11.2018.

2.8 She has placed reliance on the Paragraph 2 of the clarification dated 03.04.2012 issued by DoPT. She has also submitted that she was 50 years of age when she was given compassionate appointment and is presently 55 years of age.

3. The applicant has prayed for the following reliefs:-

“8(i) This Hon'ble Tribunal may kindly be pleased to quash the impugned termination order dated 29.11.2018 Ann. A-6 with all consequential benefits and direct the respondents to allow the applicant to continue in service.

8(ii) Any other relief or relief's order or order's, direction or directions, which this Hon'ble Tribunal

deems fit and proper, may kindly be issued including cost of the petition.”

4. Respondents in their reply have made the following submissions:-

4.1 The service of the applicant has been terminated for want of necessary minimum qualification under the authority of the instructions contained in DoPT's letter dated 03.04.2012.

4.2 Since all the tasks even in MTS grade, needs qualification of at least a matriculation or equivalent to perform the job in a research institute without fail, there was no reason with the appointing authority to get satisfied that any duty can be performed with help of some on job training, who does not even have/acquired matriculation certificate and cannot read the labels of files/books/chemicals etc. Therefore, it was not possible to continue the services unless the applicant acquires minimum qualification, for avoiding any unforeseen irretrievable loss to institute/person on account of handling above objects/chemicals by illiterate person.

4.3 The applicant accepted the condition of her appointment order dated 30.05.2014 (Annexure A/3) and joined the service without any objection. She never raised any grievance about the condition regarding acquiring minimum education qualification at any point of time. Now she cannot raise such objection at this point. Despite granting sufficient time/opportunities to acquire minimum educational qualification, the applicant cannot acquire the same. Therefore, her services have rightly been terminated.

5. Heard the averments of learned counsel for both the parties which were on the same lines as their pleadings available on record.

FINDINGS

6. Extracts from the order of this Tribunal dated 19.09.2013 (Annexure A/1) read as under:-

“6. On further research, we found that subsequent to the DOPT’s O.M. dated 11.12.2009 (Annexure A-9), the DOPT vide their OM No. F.No.14014/2/2009-Estt.(D) dated 3.4.2012 has issued further clarification regarding regulation of conditions and admissibility of various allowances after implementation of the 6th Central Pay Commission with regard to compassionate appointment.

Paragraph 2 of the above clarification reads as under:-

“2. In case of appointment of a widow not fulfilling the requirement of educational qualification, against the post of MULTI TASKING STAFF, she will be placed in Group ‘C’ Pay Band -1(Rs.5,200-20,200) plus Grade Pay Rs.1800 directly without insisting on fulfillment of educational qualification norms, provided the appointing authority is satisfied that the duties of the post against which she is being appointed can be performed with help of some on job training. This dispensation is to be allowed for appointment on compassionate ground against the post of ‘MULTI TASKING STAFF’ only.

(emphasis supplied by us)

7. Accordingly, we allow this Original Application and set aside the impugned order dated 09.11.2011 (Annexure A-7) and direct the respondents to continue the applicant in the service under the respondents, forthwith and also consider her case for grant of the benefits as per the clarification dated 3.4.2012 referred to above. However, the applicant shall not be entitled for any arrears of pay and allowances on the principle of no work no pay, for the intervening period i.e. from the date of disengagement to date of this order. No costs.”

7. Perusal of office order dated 30.05.2014 (Annexure A/3) clearly indicates that the same has been issued in compliance of order of this Tribunal dated 19.09.2013.

However, following was added in this appointment letter:-

“Five years time is given to her for acquiring minimum education qualification (Matriculation or equivalent pass OR ITI pass) for appointment as Multi Tasking Staff as per Recruitment Rules.”

8. By carefully perusing the operative para of the order of this Tribunal dated 19.09.2013, we find that nowhere the directions have been given that the applicant has to acquire the minimum educational qualification within 5 years. However, the appointment letter dated 30.05.2014 (Annexure A/3) has added this stipulation that she has to acquire the minimum educational qualification within 5 years. The clarification in Para 2 of the DoPT's OM dated 03.04.2012 is only for those who do not have the requisite educational qualification and this dispensation has been granted only to a widow in case of compassionate appointment against the post of Multi Tasking Staff. Therefore, we find that the appointment order dated 30.05.2014 cannot be read harmoniously along with the earlier order of this Tribunal coupled with Para 2 of the DoPT's O.M.

9. It is very clear that the compassionate appointment by itself is a benevolent act on the part of the Government to alleviate the hardship of the bereaved family dealing with the sudden loss of the bread earner. Further dispensation has been granted to widows seeking compassionate appointment but not fulfilling the educational qualification. We also find that this dispensation is only for the Multi Tasking Staff which is the lowest rank in the hierarchy.

10. The DoPT's OM clearly provides that some hand-holding is to be done in case of the widow so that she can meet the requirement of the organization as well as take care of her needs financially.

11. In view of the above, we are of the considered opinion that stipulation of 5 years to acquire minimum educational qualification in the order dated 30.05.2014 (Annexure A/3) was not correct in letter and spirit. Consequently, we find that the termination of services vide order dated 29.11.2018 (Annexure A/6) is illegal and

unlawful. Accordingly, office order dated 29.11.2019 (Annexure A/6) is quashed and set aside. Respondents are directed to continue the applicant in service forthwith and take necessary action as indicated in order of this Tribunal dated 19.09.2013. However, the applicant shall not be entitled for any arrears of pay and allowances on the principle of no work no pay, for the intervening period i.e. from the date of disengagement to date of this order. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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