

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT DELHI – 1,
NEW DELHI.**

ID No.78/1998

Kaushalya Devi,
W/o Late Sh. Premlal, R/o Nai Basti, Patharipur,
Dehradun, Uttarakhand.

Claimant...

Versus

1. The Deputy Director of Medical Services
Area, Bareilly Cantt UP
2. The Director,
Military Hospital Dehradun, Uttarakhand.

Managements...

Argued by: Sh. S.C. Tomar, A/R for Petitioner.
Sh. Prabhash Giri, A/R for the Respondents.

AWARD

1. The Government of India, Ministry of Labour had made the following reference to this Tribunal:

“Whether the action of the management of Sainik Hospital Dehradun in terminating the services of Smt. Kaushalya Devi wife of late Sh. Premlal, Ex-Safai Karamchari w.e.f 23.12.92 is legal and justified? If not, to what relief the worker is entitled?”

2. Vide Award dated September 02, 2003, this tribunal had passed a “No Dispute” Award in this case. However, Hon’ble High Court of Uttarakhand at Nainital had set-aside the above-said Award vide order dated April 09, 2019 and had remanded this case to this Tribunal for deciding the reference afresh after hearing the parties. In compliance of the orders of Hon’ble High Court of Uttarakhand, this reference is hereby being decided afresh.

3. Briefly stated, the case of the petitioner was to be following effect. The petitioner was employed as Safai Karamchari by the respondent no. 2 vide order dated 01.12.1989. The petitioner had continuously worked up to 01.01.1993 under the respondents. The services of the petitioner were finally terminated by the respondents in January, 1993 without conducting any departmental enquiry and without giving any opportunity of hearing to the petitioner. The petitioner has prayed that her dismissal order passed by the respondent no. 2 be set-aside and she should be reinstated in service with all consequential benefits.

4. Respondents had filed a written statement, inter alia, to the following effect. The respondents had raised the preliminary objections, inter alia, with regard to the non- maintainability of the petition, absence of cause of action etc. The petitioner was appointed on 01.12.1989 upon probation of two years. During the probation period, several complaints were received against the petitioner and her probation was extended by one year up to 30.11.1992. The petitioner used to remain absent from duty very frequently during the

probation period. Since the petitioner failed to improve her performance during the third year of probation, she was served with a one-month notice of termination of her services on 23.12.1992. The services of the petitioner were actually terminated by the respondents vide order dated January 23, 1993. The petitioner is not entitled to any relief and her petition should be dismissed with cost.

5. On the pleadings of the parties, the following issues were framed by learned predecessor;
 1. Whether claim petition, filed by the claimant is not legally maintainable in view of the preliminary objection?
 2. In terms of the reference.
6. In support of the case of petitioner, learned A/R for the petitioner had tendered the affidavit Exhibit WW1/A along with the documents Exhibit WW1/1 to WW1/7 only.
7. In support of the case of respondents, learned A/R for the respondents had tendered the affidavit of Sh. Sunil Kumar Kannoja UDC of Military Hospital, Dehradun along with the documents Exhibit MW-1/1 to Exhibit MW-1/9 only.
8. I have heard the learned A/Rs for the petitioner and the respondents. Written arguments submitted by on behalf of the petitioner and the respondents were also perused.

9. Learned A/R for the petitioner had argued that the petitioner had continuously worked as a Safai Karamchari up to January 23, 1993. Learned A/R for petitioner has further argued that respondent no. 2 had taken the signatures of the petitioner upon some blank papers and had continuously harassed the petitioner. Learned A/R for the petitioner pleaded that petitioner was performing her duties regularly and sincerely during the period of her service. Learned A/R for the petitioner has further argued that the respondent no. 2 had terminated the services of the petitioner w.e.f. January 23, 1993 without giving any notice and opportunity of hearing. Learned A/R for the petitioner has prayed that the dismissal order of the petitioner should be set-aside and petitioner should be reinstated in service with all the consequential benefits.

10. Learned A/R for the respondents has argued that the respondents are running a government hospital and are not covered by the provisions of the Industrial Disputes Act. Learned A/R for the respondents has further argued that the petitioner was, initially, appointed as a Safai Karamchari with effect from 01.12.1989 upon probation of two years. Learned A/R for the respondents has pleaded that the petitioner used to remain absent from duty very frequently and several complaints were received against her during the period of probation. Learned A/R for the respondents has further pleaded that the probation period of the petitioner was extended by one year up to 30.11.1992. Learned A/R for the respondents has stated that since the performance of the petitioner was not satisfactory during the period of her probation, the petitioner was served with a one-month notice

of termination of her services on 23.12.1992. Learned A/R for the respondents has further stated that the services of the petitioner were terminated by the respondents on January 23, 1993. Learned A/R for the respondents contended that it was not necessary to conduct any enquiry during the probation period of the petitioner. Learned A/R for the respondent has strongly defended the right of the respondents to terminate the services of the petitioner during the period of her probation. Learned A/R for the respondents had prayed that the petition of the petitioner should be dismissed with costs. Reliance in this behalf was placed upon the rulings cited as State of Punjab V. Sukh Raj Bahadur, AIR 1968 SC 1089, Oil and Natural Gas Commission V. Md. S. Iskander Ali, (1980) 3 SCC 428, State of U.P. V. Kaushal Kishore Shukla, (1991) 1 SCC 691, Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, (1999) 3 SCC 60 and Pavanendra Narayan Verma V. Sanjay Gandhi PGI of Medical Sciences, (2002) 1 SCC 520.

11. It was pleaded on behalf of the respondents that they are not covered by the provisions of Industrial Dispute Act, 1947. However, it is difficult to accept this plea of the respondents. The respondents are running a hospital offering free medical services to the army personnel. This is not a sovereign function of the respondents. Free medical services can be provided by any charitable private party also. There is nothing like sovereign function in providing medical services to the needy in any manner. Admittedly, the petitioner was also not performing any sovereign function by performing the duties of a Female Safaiwali. In this background, the activities of

respondents would clearly be covered under Section 2(j) of the Industrial Disputes Act, 1947. Consequently, the respondents would be, undoubtedly, covered by the provisions of the Industrial Disputes Act, 1947.

12. Further, it is necessary to notice certain important admissions made by the respondents in their written statement/ reply to the claim statement of the petitioner. In the written statement, the respondents have admitted that the petitioner was appointed as Female Safaiwali (Non- Industrial) on December 01, 1989 with two years of probation period. Further, the respondents have admitted that upon the expiry of the two years probation period of the petitioner, the probation of the petitioner was further extended by one year with effect from December 01, 1991 to November 30, 1992. Thereafter, the respondents further admitted that the petitioner was served with one-month notice of termination of her services on December 23, 1992. The respondents further admitted that the services of the petitioner were finally terminated with effect from January 23, 1993. Law is well settled that the admissions made by a party in its pleadings are the best evidence against the said party and can be safely relied upon by the court for deciding the dispute in question.

13. A careful perusal of the aforesaid admissions made by the respondents in their written statement would clearly prove that the extended period of probation of the petitioner had come to an end on November 30, 1992 itself. Significantly, the respondents had served the petitioner with a one-month notice of termination of her services

on December 23, 1992 **after the expiry of the probation period on November 30, 1992**. Admittedly, the services of the petitioner were actually terminated by the respondents with effect from January 23, 1993 **after the expiry of the period of probation of the petitioner**.

14. Law is well settled that after the expiry of the prescribed period of probation of any employee, the said employee would be deemed to have been automatically confirmed in service as a regular employee. Consequently, upon the expiry of the extended period of probation of the petitioner on November 30, 1992, the petitioner would be deemed to have been confirmed in service as a regular employee with effect from December 1, 1992 onwards. In this background, the respondents had no right to terminate the services of the petitioner without conducting a regular departmental enquiry against the petitioner in accordance with law. However, the respondents had served the petitioner with one-month notice of termination of her services on December 23, 1992. Thereafter, the respondents have finally terminated the services of the petitioner with effect from January 23, 1993. No doubt, the respondent had served the petitioner with a one-month notice before actually terminating the services of the petitioner on January 23, 1993. However, the respondents had not paid any retrenchment compensation to the petitioner in accordance with section 25-F of the Industrial Disputes' Act, 1947. Thus, the respondents had clearly violated the provisions of section 25-F of the Industrial Disputes Act, 1947 while terminating the services of the petitioner with effect from January 23, 1993.

15. Now, the question to be determined by the Tribunal is as to what relief the aggrieved petitioner would be entitled to. Admittedly, the services of the petitioner had been terminated by the respondents with effect from January 23, 1993. Accordingly, a long period of more than thirty-three years has already passed since the date of termination of services of the petitioner. In this background, any useful purpose would not be served by ordering the reinstatement in service of the petitioner after such a long period. Law is well settled that in such cases, the petitioner can be adequately compensated by awarding adequate monetary compensation to the petitioner. Reference in this behalf may be made to the ruling by Hon'ble Supreme Court of India in *Bharat Sanchar Nigam Limited Vs. Bhurmal* (2014) 7 SCC 177.
16. Consequently, in the given facts and circumstances, the petitioner can be adequately compensated by awarding her the monetary compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) along with appropriate interest.
17. Hence, an Award is hereby passed directing the respondents to pay the compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) alongwith interest at the rate of 6% per annum upon the awarded amount from the date of the present reference up to the date of realization. The reference made by the Appropriate Government is answered accordingly.

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18. A copy of the Award be sent to the Appropriate Government as per rules. Case file be consigned to the Record Room.

(Ajay Kumar Jain)

Presiding Officer

CGIT-cum-Labour Court, Delhi-1

11.05.2026