

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: April 13, 2018

+ **W.P.(C) 3652/2018 & CMs 14477-78/2018**

VIDHI AWASTHI

..... Petitioner

Through: Mr. Rana Ranjit Singh, Mr. Vivek
Kumar Singh and Mr. Ravish Singh, Advocates

Versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr. Jaswant Rai Aggarwal and Mr.
Vikrant N. Goyal, Advocates for respondents
No.1 & 2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 27th March, 2018 (*Annexure P-32*) declines appointment on the post of Stenographer on compassionate grounds to petitioner on account of non-availability of post of Stenographer, which is a group 'B' post.
2. Once appointment has been made on compassionate ground, then without a show-cause notice, appointment cannot be discontinued. It is so said in view of Office Memorandum of 16th January, 2013 (*Annexure P-8*). Clause 17 of the aforesaid O.M. reads as under: -

"TERMINATION OF SERVICE"

The compassionate appointments can be terminated on the ground of noncompliance of any condition stated in the offer of appointment after providing an opportunity to the compassionate appointee by way of issue of show cause

notice asking him/her to explain why his/her services should not be terminated for non-compliance of the condition(s) in the offer of appointment and it is not necessary to follow the procedure prescribed in the Disciplinary Rules/Temporary Service Rules for his purpose.

In order to check its misuse, it has also been decided that this power of termination of services for non-compliance of the condition(s) in the offer of compassionate appointment should vest only with the Secretary in the concerned administrative Ministry/ Department not only in respect of persons working in the Ministry/ Department proper but also in respect of Attached/Sub-ordinate offices under that Ministry/ Department.(O.M. No. 14014/19/2000-Estt(D) dated 24.11. 2000).”

3. It is matter of record that though petitioner was offered appointment on compassionate ground on the post of Stenographer, but she was allowed to join as Data Entry Operator and on the said post, she continued to work for about three years. Vide Office Order of 5th October, 2017 (*Annexure P-1*), petitioner’s service as Data Entry Operator has been abruptly discontinued by simply observing that her appointment as Data Entry Operator has been found to be illegal.

4. Learned counsel for respondents No.1 & 2 submits that the post of Data Entry Operator has to be outsourced as per directive of 8th February, 2011 (*Annexure P-7*) of the Ministry of Home Affairs, Government of India.

5. Be that as it may. Impugned Office Order (*Annexure P-1*), whereby petitioner’s service has been discontinued, cannot be sustained in view of afore-referred Office Memorandum (*Annexure P-8*).

6. In view of aforesaid, impugned Office Order of 5th October, 2017 (*Annexure P-1*) is set aside with direction to respondents No.1 & 2 to offer any group 'C' post to petitioner on compassionate ground within a period of six weeks from today.

7. With aforesaid directions, this petition and the applications are disposed of.

**(SUNIL GAUR)
JUDGE**

APRIL 13, 2018

s

