

(1994) 11 SC CK 0095
In the Supreme Court Of India
Case No : Civil Appeal No. Of 1994

Central Hospital

APPELLANT

Vs

Savita S. Bodke and Others

RESPONDENT

Date of Decision : 07-11-1994

Acts Referred:

Citation : (1995) 3 SCC 397 Supp

Hon'ble Judges : A. M. Ahmadii, C.J;S. Mohan, J;N. Venkatachala, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. Leave granted.
2. Leave also granted to State that the appellant is the Union of India.
3. Heard counsel on both sides.
4. The facts reveal that the respondent was originally appointed as a Staff Nurse in 1975 but when it was found that she did not possess the requisite 9 qualifications required for Staff Nurse as per the relevant recruitment rules then in operation, her services were terminated on 8/3/1982 under the provisions of C.O.S. (Temporary Service) Rules, 1965. The respondent did not question her termination and accepted the offer of being posted as Auxiliary Nurse Midwife (ANM) in the scale of Rs 260-350. Thereafter, she made certain representations, the last in 1985, against the termination order but they were rejected on the ground that she did not possess the requisite qualification and was not eligible for the post of Staff Nurse. Taking advantage of the confirmation order issued in 1990, in 1991 she filed the petition in question before the central Administrative tribunal, Bombay, which came to be numbered as OA No. 241 of 1992. The tribunal notwithstanding the long lapse of time of almost a decade and notwithstanding the fact that her services were terminated in 1982 as she was found to be ineligible for want of qualification and further notwithstanding the fact that she had accepted appointment as ANM quashed the order of

termination and granted her wages as if she was a Staff Nurse. We fail to understand how the tribunal could have exercised jurisdiction in regard to an event which occurred long before it came into existence and how it could direct payment of salary of Staff Nurse when she was not qualified to be appointed to the post. The duties of the Staff Nurse and ANM may overlap and in the absence of the former the latter may be required to carry out some of those functions but that would not justify payment of salary of the former. We, therefore, find it difficult to sustain the order of the tribunal.

5. IN the result, we allow the appeal, set aside the impugned order of the Tribunal and direct that the OA filed by the respondent shall stand dismissed with no order as to costs.