

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 381/99

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New Delhi, this the 24th day of October, 2000

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Satya pal
S/o Sh. Chander Singh,
Village Rahdree,
P.O. Paswada,
District Meerut, U.P.
(By Advocate: Sh. Gajendra Giri)

VS.

1. The Commissioner of Police,
Delhi Police, Police Headquarters,
I.P. Estate, M.S.O. Building,
New Delhi.
2. The Deputy Commissioner of Police,
10th Bn. D.A.P. Delhi.
(By Advocate: Mrs. Neelam Singh)

ORDER (ORAL)

Mr. Justice V. Rajagopala Reddy,

The order under challenge is the order of removal of the applicant under Rule 5(1) of the CCS Temporary Services Rules, 1965. The applicant was appointed as Constable in Delhi Police in the year 1986. Certain allegations have been made against him that he alongwith others have forged the H.Sc. certificate issued by the High School in order to secure the appointment as Constable. On these allegations an FIR 17/88 Police Station Mangolpuri has been registered and the applicant and others have been put up for trial before the Criminal Court for the offences under Section 420/468/471-IPC read with 34-APC. On the sole ground of pendency of the criminal case the applicant was removed from service by the impugned order 14.1.88. Subsequently, after the trial the applicant and others have been acquitted from all the charges by the Trial Court and no appeal has been preferred against

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the judgment dated 10.11.94. Since no appeal has been preferred it has become final. The applicant filed a representation before the Commissioner of Police for reinstatement as he has been acquitted but the representation was rejected. Against this order the OA is filed.

2. The only question that arises for consideration in this case is whether the order of termination is in accordance with law. The impugned order reads as under:-

"In pursuance of the proviso to Sub-Rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I, Kewal Singh, Dy. Commissioner of Police, 10th Bn. DAP, Delhi hereby terminate forthwith the Services of Constable Satya Pal Singh No.11774/DAP and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates which he was drawing them immediately before the termination of his services.

He is not in occupation of Government Quarter.

sd/ 14.1.88

(Kewal Singh)
Deputy Commissioner of Police,
10th Bn. DAP, Delhi."

3. Learned counsel for the applicant Sh. Gajendra Giri submits that though the order does not per se show that it was punitive but if the veil was lifted, it could be seen that it was passed only on the ground that he was guilty of the cheating and forgery and misconduct. The order is therefore stigmatic and unless the chargesheet has been issued and an enquiry held the applicant cannot be terminated from service and the order is violative of Article 311 (2) of the Constitution.

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4. Learned counsel for respondents Mrs. Neelam Singh, however, fairly concedes that on verification it was found that the applicant has committed the misconduct as he has produced a forged certificate of having passed the High School examination though he has failed in the said examination only for the purpose of securing appointment.

5. We have given careful consideration of the contentions raised. The counter clearly states that the applicant was found guilty of misconduct for the charges of forgery and cheating. Thus, though the impugned order does not speak of any ground of misconduct in view of the stand taken by the respondents in the counter itself it has to be held that it was stigmatic punitive action was taken against the applicant. He is entitled for hearing before he was removed. In Babu Lal vs. State of Haryana and others reported in 1991 (2) SCC 335 it was held that if the order was punitive the aggrieved person was entitled to be heard. It was held that though the order was simple of termination, if it was found to be a camouflage for a punitive action, the order is liable to be set aside.

6. It is also seen in the instant case the applicant has been acquitted of the charges of cheating and fabrication by the criminal court in a judgment dated 10.11.94. Hence after adjudication he was acquitted. Even then, it is open to the respondents to hold an enquiry and take action.

7. In view of the above circumstances, the impugned order cannot stand sustained. The OA succeeds. The impugned order Annexure 'B' is quashed. Respondents shall reinstate the

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applicant into service within a period of 3 months from the date of receipt of a copy of this order with all consequential benefits. OA allowed with costs of Rs.1000/-.

(GOVINDAN S. TAMPI)
Member (A)

'sd'

(V. RAJAGOPALA REDDY)
Vice Chairman (J)