

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1548 of 1998

New Delhi, this 11th day of April, 2000

Hon'ble Shri Justice V.Rajagopal Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

(10)

Mukesh  
S/o Shri Parmanand  
R/o D-627  
J.J. Colony Wazirpur  
Delhi.

...Applicant

(By Shri A.K.Bhardwaj, Advocate)

versus

1. National Capital Territory of Delhi,  
Through:  
The Secretary Home (General) Department  
5 Shambhavi Marg  
Delhi-54.
2. The Inspector General of Prisons  
Prisons Head Quarter  
Near Lajwanti Garden Chowk  
Janakpuri, New Delhi-64.
3. The Deputy Secretary Home (E.N.)  
Government of Delhi Home (General) Department  
5 Shambhavi Marg  
Delhi-54. ...Respondents

(By Mrs. Jyotshna Kaushik, Advocate: not present)

Order (oral)

By Reddy, J.

The applicant was appointed in pursuance of the offer of appointment dated 23.1.1996 temporarily in the post of Warden on a pay of Rs.950/- in the scale of Rs.950-1400 in Central Jail, Tihar, New Delhi. He was entitled to draw dearness allowance and other allowances. The applicant joined on 15.2.1996. He was also given training and he completed the training. He was also given award by the DIG for excellent performance in training centre. By an order

OB

dated 12.3.1997, the applicant was terminated from service forthwith. This order is impugned in this OA. (11)

2. Two grounds are raised by Shri A.K. Bhardwaj - (a) the order casts a stigma on the applicant and hence the applicant should have been issued notice of hearing before the order was passed and (b) the order is vitiated inasmuch as the applicant was not paid one month's pay in lieu of notice.

3. We have perused the pleadings and considered the arguments advanced by the learned counsel for the applicant. None appeared for the respondents.

4. In our view this case can be disposed of on the 2nd point raised by the learned counsel for the applicant.

5. From a perusal of the order of the offer of appointment it is clear that the appointee can only be terminated by one month's notice. The appointing authority however reserves the right to terminate the services of the applicant forthwith by making payment to him of a sum equivalent to pay and allowances for the period of notice. It is true that the applicant is a temporary employee and that he could be removed

✓

from service without assigning any reason but he must be given one month's notice. If the applicant is sought to be removed forthwith he shall be paid the sum equivalent to one month's pay and other allowances. By the impugned order however the applicant was terminated from service forthwith without making such payment of one month's pay. It was only stated in the impugned order that the applicant "is entitled to claim" the sum equivalent to the amount of his pay plus allowance for the period of notice. We are of the view that as the applicant has been removed forthwith, the amount of one month's notice should have been paid to him simultaneously. The payment shall be simultaneous.

6. As the applicant was appointed by the Inspector General of Prisons, he is governed by Rule 5 of the CCS (Temporary Service) Rules 1965. Rule 5.1 of the above rule makes it clear that the government servant could be terminated forthwith by making payment to him of a sum equivalent of his pay plus allowances for the period of notice. Thus it is essential for the respondents to have made the payment simultaneously to the order of removal. We are also supported in our view by the decision in Nila Jagadish Chandra Ojha Vs UOI 1988(7) ATC 456 (Ahmedabad) where it was held that the



(B)

termination of service has to be simultaneous with the payment to the employee whatever is due to him.

7. In view of the above, the impugned order is vitiated and is liable to be set aside and is accordingly quashed. The respondents are directed to re-instate the applicant into service within a period of one month from the date of receipt of a copy of this order. No costs.

*Shanti S*

(Mrs. Shanta Shastry)  
Member(A)

*V. Rajagopal Reddy*

(V. Rajagopal Reddy)  
Vice Chairman(J)

dbc