

Central Administrative Tribunal
Principal Bench

O.A. No. 1759 of 1998

New Delhi, dated this the 16 February, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

(By Advocate: Ms. Raman Oberoi)

Versus

1. Union of India through the Secretary, Ministry of Personnel, Public Grievances & Pensions, North Block, New Delhi-110001.
2. Secretary, Staff Selection Commission, Block No.12, CGO Complex, Lodhi Road, New Delhi-110003.
3. Executive Director, Computer Centre, Dept. of Statistics, Ministry of Planning & Prog. Implementation, East Block 10, R.K. Puram, New Delhi-110066.
4. Secretary, Dept. of Official Language, Ministry of Home Affairs, Lok Nayak Bhawan, Khan Market, New Delhi-110003.

(By Advocate: Shri V.S.R. Krishna)

ORDER

HON'BLE MR. S.R. ADIGE

Applicant impugns respondents' order dated 30.10.1998 (Annexure A-1/2) and dated 31.8.98 (Annexure A-1/1) and seeks reinstatement with all consequential benefits and costs.

2. Admittedly applicant appeared in the Junior Hindi Translators Examination, 1994 conducted by Staff Selection Commission, and upon being selected was offered the aforesaid post of Junior Hindi Translator in the Computer Centre Department of Statistics vide letter dated 2.12.96 (Annexure A-V) where he joined for a probation period of two years.

3. Meanwhile while scrutinising his application form it is said to have come to the notice of the Respondents that the photograph pasted in the application form as also his signature did not tally in totality with the photograph of admission certificate of the written part of the aforesaid Examination. By letter dated 24.1.98 (Annexure A-7) applicant was directed to show cause why action should not be initiated against him for getting somebody to impersonate him while writing this Examination.

4. Applicant submitted his explanation on 9.3.98 denying the allegations, but in Respondents' reply it is contended that the allegation of impersonation was substantiated by Government Examiner of Questioned Documents, Shimla upon which the Staff Selection Commission issued impugned order dated 31.8.1998 and thereupon the Computer Centre where applicant was appointed, terminated his service vide impugned order dated 30.10.98.

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5. We have heard applicant's counsel Ms. Raman Oberoi and Respondents' counsel shri V.S.R. Krishna.

6. It is clear that prior to the issue of the impugned order dated 31.8.98 no regular enquiry was held, in which applicant was given an opportunity to put forward his defence, and the aforesaid order dated 31.8.98 issued immediately upon rejection of applicant's reply to the show cause notice. The report of the Government Examiner of Questioned Documents, Shimla which was relied upon by respondents to hold that applicant secured employment through impersonation was also not supplied to applicant before the impugned order dated 31.8.1998 was issued. Furthermore on the strength of the impugned order dated 31.8.98, respondents issued the impugned order dated 30.10.98 terminating applicant's services without holding any regular departmental enquiry, despite the fact that the order dated 30.10.98 expressly stated that applicant's services were terminated for impersonation and thus caused stigma upon him.

7. In this connection Ms. Oberoi has relied upon a number of rulings, to establish that the impugned order dated 31.8.98 and 30.10.98 require to be quashed. One such ruling is D.P. Banerjee Vs. S.N. Bose National Centre of Basic Science, Calcutta, SCSLJ 1999 (1) 232 in which the Hon'ble Supreme Court has held that where in inquiry the findings as to misconduct were arrived at behind the back of the officer or without a regular departmental enquiry the simple order of termination was to be

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treated as founded on the allegation and would be bad in law.

8. In the present case no regular enquiry was held before the order dated 31.8.98 or the termination order dated 30.10.98 were issued, and this serious infirmity is not cured merely because the Staff Selection Commission had asked applicant to show cause against securing employment through impersonation, and issued the impugned orders after rejecting his reply to the show cause notice.

9. In the result the O.A. succeeds and is allowed to the extent that the impugned orders dated 31.8.98 and 30.10.98 are quashed and set aside. Applicant should be reinstated in service within one month from the date of receipt of a copy of this order. The period from the date of applicant's termination till the date of his reinstatement shall be determined by Respondents in accordance with rules, instructions and judicial pronouncements on the subject. It will be open to Respondents to proceed against applicant in accordance with law. No costs.


(Kuldip Singh)

Member (J)

'gk'


(S.R. Adige)

Vice Chairman (A)