

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 796 /19 98

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DATE OF DECISION : _____

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN
HON'BLE SHRI R. K. AHOOJA, MEMBER ()

Sunder Singh Sirohi

... Applicant(s)

-Versus-

Union of India & Ors.

... Respondent(s)

Advocates :

Mr./~~Ms.~~ B. B. Raval for Applicant(s)

Mr./~~Ms.~~ S. Mohd. Arif for Respondent(s)

- ✓ 1. Whether to be referred to Reporter? *yes*
2. Whether to be circulated to other Benches?

Km
(K. M. Agarwal)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.796 of 1998.

NEW DELHI, THIS THE 15th DAY OF NOVEMBER, 1998.

HON'BLE SHRI JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE SHRI R.K.AHOOJA, MEMBER (A)

Sunder Singh Sirohi,
S/o Shri Tej Singh,
R/o F-349, Nanak Pura,
NEW DELHI-110021.

.....APPLICANT.

(BY ADVOCATE SHRI B.B.RAVAL)

vs.

1. U.O.I.
Through the Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110001.
2. The Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi-110001.
3. The Joint Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
110, Mall Road,
Lucknow.
4. Shri M.C. Gupta,
Assistant Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
110, Mall Road,
Lucknow.
5. Shri A.K.Dutt,
Assistant Director,
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
110, Mall Road, Lucknow.

.....RESPONDENTS.

(BY ADVOCATE SHRI S.MOHD. ARIF)

ORDER

JUSTICE K.M. AGARWAL:

An order of termination simpliciter in exercise of powers under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 is challenged in this O.A. by a temporary employee.

2. Briefly stated, the applicant was appointed as

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a Junior Intelligence Officer Grade II by the respondents by order dated 6.12.1996, Annexure A-1, and was asked to join his duties on or before 6.1.1997 as reflected by the document, Annexure A-2 addressed to the Civil Surgeon, Dr. Ram Manohar Lohia Hospital, New Delhi. By the impugned order dated 8.12.1997, Annexure-A, his services were terminated forthwith after giving him pay in lieu of the period of notice. The applicant filed appeal against the order of termination but failed in getting favourable order on that appeal. Being aggrieved, this O.A was filed for quashing the impugned order of termination and for grant of consequential reliefs. The application is resisted.

3. Referring to documents filed as Annexures B, A-4, A-5 and certain other documents on record, the learned counsel for the applicant submitted that though the impugned order of termination appeared to be a simple order of termination, it was punitive in nature. It was argued that more than once the applicant was asked to show cause for certain alleged misconduct on his part but no inquiry was held. It was submitted that the applicant had applied for his transfer from Lucknow to any other place in the North East of India which was rejected and, thereafter, the impugned order of termination was passed as a measure of punishment. Accordingly it was submitted that in the light of two decisions of the Supreme Court in Nepal Singh v. State of U.P., (1985) 1 SCC 56, and Om Prakash Goel v. H.P. Tourism Devl. Corpn., (1991) 17 ATC 250, the impugned order of termination was liable to be quashed.

4. The learned counsel for the respondents submitted that the applicant was a temporary employee. He was, moreover, on probation. Under the circumstances, the impugned order was beyond challenge.

For

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5. After hearing the learned counsel for the parties and perusing the record, we are of the view that both cases relied on by the learned counsel for the applicant are quite distinguishable. In Nepal Singh's case (supra), the services of the employee were terminated on the ground of unsuitability and, therefore, it was held that where termination is based on the ground of unsuitability the conclusion should be founded on definable material and objectively assessed on the basis of relevant materials. In the present case, no reason is given for termination. In the case of Om Prakash Goel (supra), the Supreme Court was considering the case of a temporary employee who was served with a chargesheet and was facing a departmental inquiry. Before conclusion of the inquiry, his services were terminated. It was found by the Supreme Court that the termination was used as a camouflage to avoid an inquiry under Article 311 (2) of the Constitution and, therefore, the termination was held bad. In the present case, there is no such situation. He cannot, therefore, take advantage of the decision of the Supreme Court in the case of Om Prakash Goel (supra). According to us, his case is clearly covered by a decision of the Supreme Court in Commissioner, Food and Civil Supplies v. Prakash Chandra Saxena, (1994) 27 ATC 817 (SC). It is held in this case that it is permissible to terminate the services of a temporary employee after dropping the departmental inquiry. We, therefore, find no merit in this O.A.

6. Accordingly for the reasons aforesaid, this O.A. fails and it is hereby dismissed but without any order as to costs.

For
(K.M. AGARWAL)
CHAIRMAN

R. K. Ahooja
(R.K. AHOOJA)
MEMBER (A)