

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...

RA.No. 66 of 1994
in
OA.No.89 of 1994

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Dated New Delhi, this 17th day of October, 1994

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman(J)
Hon'ble Mr B. K. Singh, Member(A)

Shri Lalit Singh
R/o 647, Sector 7
Pushpa Vihar
NEW DELHI

... Review Applicant

By Advocate: Shri B. B. Raval

VERSUS

Union of India, through

1. The Secretary
Department of Personnel
and Training
Government of India
North Block
NEW DELHI
2. The Director
Central Bureau of Investigation
Government of India
C.G.O. Complex, Lodhi Road
NEW DELHI-110003

... Respondents

JUDGEMENT

(By Circulation)

Mr B. K. Singh, M(A)

This RA.No.66/94 in OA.No.89/94 has been filed
by the review applicant against the order and judgement
in OA.89/94 delivered on 14.1.94.

2. The impugned order in the aforesaid was passed on
1.2.93 by the Superintendent of Police under the Proviso
to Sub Rule(1) of Rule 5 of the Central Civil Services
(Temporary Service) Rules, 1965 terminating the services of

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the review applicant who was the applicant in the OA. He was paid a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service. The terms of the appointment relevant to the present case are:-

- (i) The post is purely temporary.
- (ii) The appointment may be terminated at any time by one months notice given by either side viz. the appointee or the appointing authority, without assigning any reasons. The authority, however, reserves the right of terminating the service of the appointee forthwith, or before the expiration of stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice of the unexpired portion thereof.
- (iii) The appointee will be on probation for two years which can be extended by the competent authority. During this period of probation including extended period, if any the appointment of the person is liable to be terminated without any notice and without any reason being assigned, by the appointing authority. After the period of probation is over the services can be terminated by a month's notice on either side.

The termination of the service of the petitioner is in accordance with the conditions of appointment, and the respondents were fully competent under proviso to sub Rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. No infirmity was found in the impugned order and, therefore, the Tribunal declined to interfere with the orders passed by the Superintendent of Police in the case of Shri Lalit Singh (applicant).

(X)

3. In the OA the reliefs sought were, to quash the impugned order of termination and reinstate the applicant in service with all consequential benefits and to award exemplary costs. The matter was heard by the Tribunal on 14.1.94 and after hearing the arguments of the learned counsel for the applicant, the aforesaid orders were passed by the Tribunal declining to interfere with the orders of the respondents.

4. The learned counsel for the applicant in the review application has said that his (applicant's) wife and other family members had made complaint against the applicant and this ^{was} the motive behind the termination order. In order to succeed a Review Application must fall within the four corners of Order 47 Rule 1 read with section 114 of CPC. Review applicant must show some factual or legal error apparent on the face of the record or must produce an important ^{matter} or evidence which inspite of due diligence, he could not produce when the order was made or advance substantial and reasonable ground to modify the order and judgement passed in the OA. The review applicant has failed to show any error factual or legal apparent on the face of the record nor has he produced an important matter or piece of evidence which inspite of exercise of due diligence, he could not produce when the order was made nor is there any other sufficient ground warranting review of the order passed in the case.

(b)

5. It is a well established principle of law that the termination of service under a specific rule or in terms of the contract of the employment is neither punitive nor any evil consequences flow from this as was ~~re~~ held by the Hon'ble Supreme Court in the case of Satish Chand Anand Vs UOI. Every termination of service is not per-se dismissal or removal from service. It may be true as has been stated in the RA that the complaint made by the applicant's wife might have been the motive which induced the respondents to terminate the services of the applicant although nothing of the sort has been proved in the pleadings available on record. It is true that the misconduct, negligence, inefficiency or other disqualifications may be ^{the} motive or inducing factors which influence the competent authority to take action under the terms of contract of employment or the service rules. If a right exists under the contract or the rule to terminate the services the motive operative on mind of the Government is, as Hon'ble Mr Justice Chhagla C.J. has said in the case Srinivasa Ganesh Vs UOI AIR 1956 Bombay 455, wholly irrelevant. In short, if the termination of services is founded on the right flowing from contract or the service rules, then prima facie, the termination is not a punishment and carries with it no evil consequences and so Article 311 is not attracted. In the instant case, the service has been terminated under proviso to Sub Rule (1)

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of Rule 5 of the Central Civil Services(Temporary
- Service) Rules, 1965 and as such this termination
is under a specific rule and no judicial interference
is called for, and accordingly the OA was dismissed.
In the RA also, as stated above, we do not find any
error apparent on the face of the record nor is there
any other sufficient or reasonable cause warranting
the modification of the orders already passed in the
OA and accordingly this RA is dismissed by circulation
under Rule 17(3) of the C.A.T. (Procedure) Rules 1987.

(B. K. Singh)
Member(A)

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(S. K. Dhaon.)
Vice Chairman(J)

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