

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A. No. 140/95

New Delhi: this the 20<sup>th</sup> May, 1996.

HON'BLE MR.S.R.ADIGE, MEMBER (A)  
HON'BLE DR.A.VEDA VALLI, MEMBER (J).

Mahesh Chander,  
S/o Shri Brij Mohan Lal,  
R/O C-127 Section 20, Noida, .....Applicant.

By Advocate Mrs. Rani Chhabra.

Versus

1. Union of India,  
through its Secretary,  
Ministry of Telecommunications,  
Sanchar Bhawan,  
New Delhi. ....
2. The SDO (Phones)  
3, NEDZ, Noida ..... Respondents.

By Advocate Shri M.M.Sudan.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member (A).

We have heard Mrs. Rani Chhabra for the applicant and Shri Sudan for the respondents.

2. The applicant's services have been disengaged by an order simplicitor dated 24.9.94 (Annexure-II) under Rule 5(1) CCS (Temporary Services) Rules, 1965 which casts no stigma upon him, and which was issued in accordance with the terms and conditions of his service. In State of U.P. Vs. K.K.Shukla JT 1991 (1) SC 108, the Hon'ble Supreme Court have held:

"Under the service jurisprudence a temporary employee has no right to hold the post and his services are liable to be terminated in accordance with the relevant service rules and the terms of contract of service. If on the perusal of the character roll entries or on the basis of preliminary inquiry on the allegations made against

1

(13)

an employee, the competent authority is satisfied that the employee is not suitable for the service whereupon the services of the temporary employee are terminated, no exception can be taken to such an order of termination.

A temporary Govt. servant can, however, be dismissed from service by way of punishment. Whenever, the competent authority is satisfied that the work and conduct of a temporary servant is not satisfactory or this his continuance in service is not in public interest on account of his unsuitability, misconduct or inefficiency, it may either terminate his services in accordance with the terms and conditions of the service or the relevant rules or it may decide to take punitive action against the temporary Govt. servant. If it decides to take punitive action it may hold a formal inquiry by framing charges and giving opportunity to the protection of Article 311(2) in the same manner as a permanent Govt. servant, very often, the question arises whether an order of termination is in accordance with the contract of service and relevant rules regulating the temporary employment or it is by way of punishment.

It is now well-settled that the form of the order is not conclusive and it is open to the Court to determine the true nature of the order.

It is erroneous to hold that where a preliminary enquiry into allegations against a temporary Govt. servant is held or where a disciplinary enquiry is held but dropped or abandoned before the issue of order of termination, such order is necessarily punitive in nature.

3. In the present case, the applicant along with one Sunhari Lal Sharma, Lineman were found to have unauthorisedly provided four telephonic connections to an individual, resulting in a loss of revenue to the respondents of approximate rupees two lacs. A criminal case under sec. 379 ITC was also instituted in this connection, and before the applicant was disengaged by the impugned order dated 24.9.94, a Memo was also served on

14

him on 25.8.94 to which, the respondents states, he gave no reply. It is manifest that the applicant was found unsuitable to continue in service and he was therefor disengaged in accordance with the terms and conditions of his service. The contention that he had put in continuous service since 1984 and therefore could not be disengaged by an order simplicitor under Rule 5(1) CCS (Temporary Service) Rules, or that Sunhari Lal Sharma was suspended while the applicant's service were terminated, does not help the applicant. Shri Sudan has stated at the bar during hearing that Sunhari Lal Sharma had been regularised whereas the applicant was not regularised, and he could be disengaged by the impugned order simplicitor issued under Rule 5(1) CCS (Temporary Service) Rules, 1965.

4. The ruling in K.K.Shukla's case (supra) squarely covers the present case, and no interference is warranted. The OA fails and is dismissed. No costs.

A. Vedavalli  
( DR.A. VEDA VALLI )  
MEMBER (J)

S.R. Adige  
( S.R. ADIGE )  
MEMBER (A)

/ug/