

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.345/95

New Delhi this the 22nd day of January 1997

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

Mahabir Singh
S/o Shri Lal Chand
H.No.448 Vill.& P.O.Bawana
Delhi - 110 039.

...Applicant.

(By advocate: Shri R.P.Sharma)

Versus

1. Govt. of NCT of Delhi
through Lt. Governor of Delhi
5, Sham Nath Marg
Delhi - 110 054.
2. The Chief Secretary
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi - 110 054.
3. The Secretary cum Director
Govt. of NCT of Delhi
5, Sham Nath Marg
Delhi-54.
4. Mr R.B.S.Tyagi
Joint Director
Administrative Reforms
5 Shammath Marg
Delhi - 54.

...Respondents.

(By advocate: Shri Jog Singh)

ORDER

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This application was heard alongwith OA Nos.2096, 2108, 2331, 2332, 2471, 2472, 2525, 2526. 2582 of 1994, 39, 217, 2095/94 and 1429 of 1995 as the background in which the services of the applicants in these cases were dispensed with was identical and as common question of law and facts was involved. All these applications refer to discontinuance of services of Class-IV employees under the Directorate of Employment on ad-hoc basis during a particular time. However, as each of the case presents its own special features, we find that it is more convenient to dispose of the applications individually though heard together.

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This application is directed against the order of the second respondent dated 19.1.95 discontinuing the services of the applicant on the ground that his appointment was made erraneously, irregularly and unauthorisedly. The facts are as follows:

2. On 25.6.92, the applicant received an offer of appointment as peon in the Directorate of Employment and accepting the offer, after completion of procedural formalities, the applicant joined as peon on 9.7.92. While the applicant was in service, the impugned order was passed discontinuing his appointment. The applicant states as no show-cause notice was given to the applicant, the termination of his services is violative of the principles of natural justice as also the Articles of 14 & 16 of the Constitution. Therefore, he has filed this application seeking to have the impugned order quashed.

3. Respondents in their reply contend that the appointment of the applicant was erroneous as there was no vacancy, that it was made by the then Joint Director with ulterior motives along with many other appointments during the same period, that this irregular and illegal appointments were probed into on the basis of complaints and that, therefore, the decision was taken to discontinue such appointments and refer the matter for investigation. The termination of the services of the applicant under these circumstances being made bonafide, the respondents contend that the application may be dismissed.

4. On a perusal of the materials placed on record and on hearing the learned counsel on either side, we are of the considered view that the order discontinuing the services of the applicant finding that there was no post available cannot be faulted. If the applicant was confirmed on the post, then his services could not have been terminated without holding an enquiry. Further, as the termination of the applicant was not ^{for} a misconduct on his part and without attaching any stigma on him, apparently no exception can be taken against the order. In these circumstances, we are of the

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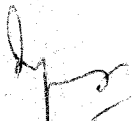
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considered view that there is no justification for judicial intervention. However, if ultimately on completion of the investigation it is found that the appointment of the applicant was not vitiated for any reason, the respondents are bound to reinstate the applicant in service.

5. In the result, the application is disposed of with the following observations/directions:

- (a) The prayer of the applicant to have the impugned order quashed is not granted.
- (b) If ultimately as a result of the investigation it is found that the appointment of the applicant was not irregular or vitiated, then the respondents shall consider the resumption of his services.

No order as to costs.


(K. Muthukumar)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

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