

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

DA 381/1995

New Delhi this the 7th day of August, 1998.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Hon'ble Shri K. Muthukumar, Member (A)

In the matter of

Rohtas Kumar
S/O Shri Baldev Singh,
Resident of H.No. 2086,
Basti Kuan Wali, Turkman Gate,
New Delhi-2.

.. Applicant

(By Advocate Shri Anis Ahmad Khan)

Versus

1. The Union of India,
through the Secretary of
Home Affairs, Govt. of India,
North Block, New Delhi-11
2. The Director General,
Central Bureau of Investigation,
Government of India,
New Delhi.

.. Respondents

(By Advocate Sh. N. S. Mehta, learned
senior counsel)

ORDER (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by the Office Order dated 12.5.92 issued by the respondents under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 terminating his services with effect from the same date.

2. The brief facts of the case are that the applicant was appointed as Constable in the Central Bureau of Investigation (CBI) by Office Order No. 91/91 dated 19.4.91 w.e.f. 16.4.91. During the probation period admittedly, the applicant's services were terminated by the impugned order dated 12.5.92. The applicant has stated in the DA that he had obtained the Degree of B.A. from the Bhagalpur University (Bihar) bearing No. 65606/3.6.92.

3. The main arguments submitted by Shri Anis Ahmad Khan, Learned counsel for the applicant is that the applicant, even

though a probationer, could not have been terminated by the impugned order and enquiry should have been held under Article 311(2) of the Constitution. He has relied on the judgement of the Hon'ble Supreme Court in Commodore Commanding, Southern Naval Area, Cochin Vs. V.N. Rajan (1981(Suppl.(2) SCC 636. He has submitted that from the reply filed by the respondents, it is seen that the reason as to why the applicant's services were terminated was that he had submitted a false Graduation Certificate. Learned counsel has also contended that for the post of Constable for which the applicant had applied, the minimum qualification required was Higher Secondary and not Graduate. He has, however, admitted that at the time of sending his application for the post of Constable in 1991 the applicant had submitted the copy of the Provisional Certificate of BA issued by the Bhagalpur University dated 5.10.90 together with marksheet (Copies placed at Annexure R-III) of the reply. After the issue of the impugned order, the learned counsel for the applicant submits that the applicant has obtained another certificate from the Deputy Registrar (Examination) dated 16.9.93 which states that Shri Rohtas Kumar Roll Mong No. 25757 Registration No.19432/87 passed the BA(Pass) Exam. 1989 of this University in Third Division. The Provisional Certificate No.65606 and marks sheet No.18813 dated 3.6.92 issued to him are true and genuine. After obtaining this certificate he had made a representation to the respondents on 7.10.93 which has also been rejected by another impugned order dated 11.3.94. Hence this O.A.

4. The respondents in their reply, ¹⁸~~on 10.10.93~~ to substantiate their action, have stated that on an enquiry being made, the Controller of Exam., Bhagalpur University(Bihar) had sent them a letter dated 30.4.92 (Ann.R.IV) stating that the Provisional Certificate and marks sheet of Shri Rohtas Kumar has been found to be not genuine. On the basis ¹⁸of which the respondents have,

therefore, issued the impugned order terminating the services of the applicant. Learned counsel for the respondents has submitted that following the judgement of the Hon'ble Supreme Court in the State of Uttar Pradesh and Another Vs. Kaushal Kishore Shukla (1991)(1) SCC 691 since there is no stigma cast on the applicant by the impugned order and the same is an order simpliciter, there was no need to hold an enquiry.

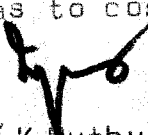
5. We have carefully considered the submissions, pleadings and materials on record.

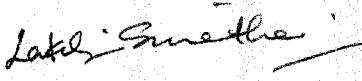
6. On a careful perusal of the certificate which is stated to have been issued by the Bhagalpur University (Bihar) dated 16.9.93 and the Provisional Certificate issued by the same University on 5.10.90 which was admittedly submitted by the applicant when he had applied for the post of Constable with the respondents, we find certain glaring discrepancies, in the facts, for example, in the Roll No., Regd. No. and more important ~~in~~ the date of passing of the BA (Pass) Examination in 1989 in III Division, while the Provisional Certificate and marks sheet is dated 3.6.92. From the applicant's own admission, Provisional Certificate for BA was submitted from the same University which is dated 5.10.90. We cannot ignore these facts. In the circumstances we find merit in the submissions made by the learned counsel for the respondents. The action of the respondents cannot be faulted that they have issued an order simpliciter terminating the services of the applicant under Rule 5 of the CCS(TS) Rules, 1965 based on the letter issued by the Bhagalpur University dated 30.4.1992. It is settled law that where the services of a probationer have been terminated under Rule 5 of the CCS(TS) Rules, 1965 by an order simpliciter without casting any stigma, no enquiry is necessary, as the same has been done in accordance with

78

law. In this case we are also of the ^{view}~~opinion~~ that the certificate relied upon by the applicant issued by the Bhagalpur University dated 16.9.93 cannot be accepted in the light of the discrepancies noted above.

6. In the result, for the reasons given above we find no merit in this application. The same is accordingly dismissed. No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

sk