

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1521/96.

NEW DELHI, THIS THE 2nd DAY OF DECEMBER, 1998.

HON'BLE MR. JUSTICE K.M. AGARWAL, CHAIRMAN.
HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Shri Chattar Singh,
S/o Shri Ram Nath,
R/o Gaon Rangpuri,
New Delhi-110037.

.....APPLICANT.

(BY ADVOCATE SHRI SURINDER SINGH)

versus

1. The Chief Secretary,
Govt. of National Capital
Territory of Delhi,
Sham Nath Road,
Delhi.

2. The Chief Engineer (I & F)
Govt. of N.C.T. of Delhi,
Delhi.

.....RESPONDENTS.

(BY ADVOCATE SHRI RAJINDER PANDITA)

ORDER

JUSTICE K.M. AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has made a prayer for quashing the termination order dated 14.6.1996, Annexure A-1. His further prayer is for consequential reliefs.

2. Briefly stated, the applicant was a Muster Roll Driver in the Flood Control Department under the respondents since 1981, as alleged in paragraph 4.1 of the application. Without holding any inquiry, his services were terminated with immediate effect by the impugned order dated 14.6.1996 on the ground that he was involved in the cases under FIR No.224, dated 24.11.1989 under Sections 279 and 337 IPC registered in Police Station Vasant Kunj, New Delhi and in FIR No.566 dated 29.11.1985 under Sections 279 and 337 IPC registered in Police Station, Bahadurgarh (Haryana). Being aggrieved, the applicant preferred an appeal, Annexure A-4 on 27.6.1996 before the 2nd respondent. Without awaiting for

11

filed the present O.A. on 18.7.1996 for the said reliefs.

3. The respondents are contesting the application mainly on two technical grounds. One is the non-joinder of necessary parties to this application. The other is of filing the application without awaiting the result of his appeal for a period of six months. Reliance is placed on Full Bench decision in B. PARAMESHWARA RAO v. THE DIVISIONAL ENGINEER, TELECOMMUNICATIONS & ORS, OA

No.27/1990, decided on 12.4.1990 by the Hyderabad Bench of the Tribunal which is reported in Full Bench Judgments of Central Administrative Tribunal (1989-1991), Vol.II page 250.

4. After hearing the learned counsel for the parties and perusing the record, we find that the two FIRs referred to in the impugned order of termination had resulted in the acquittal of the applicant by orders passed long before the date of the impugned order. We find from Annexure-A 2 that Criminal Case No.12-2 of 13.1.1986 of the Court of Sub Divisional Judicial Magistrate, Bahadurgarh was started against the applicant on the basis of FIR No.566, dated 29.11.1985 for offences under Sections 279, 338 and 427 IPC registered by the Police Station, Bahadurgarh. It was decided in favour of the applicant (accused) on 1.2.1990. Similarly, Annexure A-3 would show that on the basis of FIR No.224/89 registered by the Police Station, Vasant Kunj for offences under Sections 279 and 337 IPC and under Section 185 M.V. Act, Criminal Case No.224/89 was registered in the Court of Metropolitan Magistrate, New Delhi which also resulted in the acquittal of the applicant (accused) by order dated 20.9.1994. Under these circumstances, we are of the view that the impugned order of termination dated 14.6.1996 was arbitrarily and without any basis issued against the applicant and, therefore, it deserves to be quashed.

12

5. So far as the technical objections for and on behalf of the respondents are concerned, we are of the view that the Government of National Capital Territory of Delhi is sufficiently represented by the 1st respondent. However, there appears to be a defect in not joining the Executive Engineer, Flood Control & DRNG: DIVN. No.VI, Government of Delhi: Gurmandi: Delhi as a party to these proceedings, though he was the person who had passed and issued the impugned order of termination. This defect appears to be serious, but looking to the facts and circumstances of the case we do not think it either just or expedient to dismiss this O.A. on such a technical ground. As regards the other objection of filing the O.A. before expiry of six months from the date of filing the appeal, we are of the view that in the case of B.PARAMESHWARA RAO (supra), the Full Bench did not say that in such a situation, no OA would be entertainable. It says, no application should "ordinarily" (emphasis given) be admitted by the Tribunal unless the applicant has exhausted alternate remedy i.e., filing appeal and waiting for six months. But this O.A. was admitted for hearing on 22.7.1996. At the end, the ordersheet records: "After the pleadings in this case are over, it will be open to either side to request for early hearing of the matter." (Emphasis supplied). This indicates that this case was not considered to be an ordinary case in the circumstances of the case. After the case had been admitted for hearing, the objection carries no weight, because the said decision does not say that in such a situation the O.A. would not be maintainable or that it would be liable to be dismissed. The objection is, therefore, overruled.

6. In the result, this O.A. succeeds and it is hereby allowed. The impugned order dated 14.6.1996, Annexure A-1 is quashed. The applicant shall be reinstated in service with back wages from the date of termination to

13

of the application to the applicant but as negligence has been shown by not joining the Executive Engineer, Flood Control & DRNG: Divn. No.VI, who had passed the impugned order, we disallow costs and leave the parties to bear the costs as incurred.

Km

(K.M.AGARWAL)
CHAIRMAN

S.R. Adige

(S.R.ADIGE)
VICE CHAIRMAN (A)