

21

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

...
OA No. 1112/97

New Delhi, this the 4th day of February, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Atul Vashisht
s/o late Shri K.K. Vashisht,
R/o House No. 1143, Gali No. 1,
Rameshwar Nagar, Azadpur, Delhi. ...Applicant

(By Advocate: B.B. Raval)

Versus

Union of India through

1. Secretary,
Ministry of Defence,
Govt. of India,
South Block, New Delhi.
2. The Controller General of Defence Accounts,
Ministry of Defence,
West Block V, R.K. Puram,
New Delhi.
3. The Controller of Defence Accounts (R&D),
Ministry of Defence,
Government of India,
'L' Block, Church Road,
New Delhi.
4. Shri A.S. Narang,
Assistant Accounts Officer,
Controller of Defence Accounts (R&D),
'L' Block, Church Road,
New Delhi.Respondents

(By Advocate: Shri R.V. Sinha through proxy Sh. R.N. Singh)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)

We have heard the learned counsel for the applicant and Shri R.N. Singh proxy for Shri R.V. Sinha, counsel for the respondents. We have also perused the material on record including the Report submitted by

4.2.99

Inspector Rajinder Singh of the Crime Branch, Delhi Police, New Delhi who had been detailed by the Commissioner of Police for making an investigation into the question as to whether the certificates submitted by the applicant regarding his educational qualification were genuine or not.

2. This case relates to the question of termination of the services of a temporary employee under Rule 5 (1) of the CCS (Temporary Service) Rules, 1965. The Controller of Defence Accounts, respondent no. 3 herein, has issued the notice as at Annexure A to the OA under the aforesaid Rule informing the applicant that his services shall stand terminated with effect from the date of expiry of a period of one month from the date of service of that notice on the applicant. The notice has been issued on 15.4.1997.

3. The essential facts are not in dispute. The applicant secured employment on compassionate grounds. According to the respondents the matriculation certificate and the marksheet submitted by the applicant were later proved to be fake as the Bihar Board of School Education had informed the respondents that the applicant had not appeared in the examination held by the Board under Roll code No. 8282 and Roll No. 1066 in the relevant year. A show cause notice was given to the applicant who submitted his reply and annexed thereto the copies of the certificates issued by the Bihar School Examination Board, Patna. However, on verification the certificates were found to be fake as the Joint Secretary (Vigilance) of the aforesaid Board had reported that no such student with the

[Signature]

name of Atul Vashisht has appeared in the examination under Roll Code 8282 and Roll No. 1066. The respondents accordingly issued the termination notice impugned in this O.A.

4. The applicant has annexed to his O.A. some other communications from the same Joint Secretary wherein it is stated that the earlier communication had been sent by mistake as the concerned official in the Examination Board was not available and that as a matter of fact the applicant did appear in the aforesaid matriculation examination and secured first division with 574 marks. The respondents on the other hand rely upon those communications from the School Examination Board wherein it is stated that the certificates produced by the applicant are fake.

5. When the matter came up for hearing arguments on 17.8.1998 before a Bench of this Tribunal headed by the Hon'ble Chairman the Tribunal directed the Commissioner of Police, Delhi to get the matter investigated through his agencies and submit a Report as to whether the certificate at Annexure A-2 is or is not a genuine certificate. That report has been filed by Shri Rajinder Singh, Inspector, Crime Branch. On a careful examination of the Report we find that the performance of this Inspector has been no better than that of the respondents. The Inspector has like the respondents relied upon some written communication from the Joint Secretary sent through some messenger in which it is stated that the applicant had passed in the examination under Roll Code No. 8282 and serial no. 0166 and had

[Signature]

passed the examination in the first division securing 574 marks. Interestingly the Inspector admits in his Report that he made three trips to Patna but the concerned authorities in the School Examination Board avoided to show any record to him or to give a statement. The pretext adopted on one occasion was that there was a function to be held which was being attended by the Chief Minister of Bihar. On another occasion the pretext was that the record pertaining to the applicant had been seized and was not available. If that was so how were the respondents able to send a reply through the messenger wherein it was positively stated that the applicant had passed in the examination under serial no. 0166? Such things had happened earlier also when in his separate communications to the parties the Joint Secretary of the Board had made contradictory statements.

6. Since the respondents had passed the order of termination of the applicant's services solely upon the letters from the Joint Secretary of the Bihar School Examination Board which Report itself has turned out to be of doubtful merit, the order of termination cannot be sustained. In our view the respondents will have to hold a regular enquiry after getting a clarification from the School Examination Board, Patna on the question as to how the Board have taken two contradictory stands on different occasions. It is only thereafter that the respondents should take a final view.

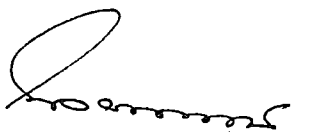
7. If the decision of the respondents goes in favour of the applicant the applicant shall be entitled to get the consequential benefits including back wages for

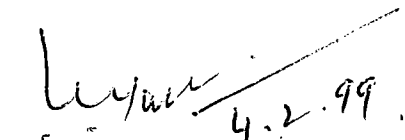
[Signature]

25

the period he has been kept out of job. Needless to say that it will be the duty of the applicant to co-operate in the enquiry so held and to make every effort to produce the true facts before the respondents and to persuade the School Examination Board to come out with those facts.

8. For the foregoing reasons we partly allow this O.A. by directing the respondents to hold a detailed enquiry as aforesaid and pass a final order not later than three months from the date of the receipt of a copy of this order. . The respondents shall communicate the decision to the applicant by giving him a copy of the original order passed after the enquiry. It shall be open to the applicant to assail that order if he still feels aggrieved by it.


(S.P. Biswas)
Member (A)


(T.N. Bhat)
Member (J)
4.2.99

na