

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA NO. 1596/97

New Delhi, this the 6th day of September, 2000

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN (J)  
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Sh. A.R.Kongan,  
S/o Sh. Ariyan,  
R/o Type-IV, House No.17,  
Engineering College Campus,  
Badli, Delhi-110042. .... Applicant  
(By Advocate: Sh. S.K.Gupta)

VS.

1. Union of India  
through Secretary,  
Department of Education,  
Ministry of Human Resource Development,  
New Delhi.
2. Lt. Governor,  
through his Secretary,  
Raj Niwas, Delhi.
3. Chief Secretary,  
Govt. of NCT of Delhi,  
5, Sham Nath Marg,  
Delhi.
4. Director-sum-Secretary  
Directorate of Training &  
Technical Education,  
'C' Block, Vikas Bhawan,  
New Delhi.
5. Principal  
Delhi College of Engineering,  
Kashmere Gate, Delhi-110006. .... Respondents  
(By Advocate: Sh. Rajinder Pandita)

ORDER (ORAL)

By Mr. Justice V.Rajagopala Reddy,

The applicant was appointed as Lecturer in Delhi College of Engineering against a vacancy meant for SC w.e.f. 20.5.96 on probation for a period of 2 years. before the probation period was completed, he was removed from service under Rule 5 (1) of CCS (Temporary Service Rules), 1965 by an order dated 16.6.96. Aggrieved by the impugned order of termination the applicant filed the present OA.

2. It is the contention of the learned counsel for the applicant, Sh. S.K.Gupta that the order is stigmatic and that the respondents having enquired into the misconduct against the applicant and having found that the allegations made against him were proved the applicant has been removed. It was incumbent for the respondents to frame a charge and conduct an enquiry and that he cannot be removed from service on the basis of the enquiry conducted behind his back.

3. The respondents filed the reply stating that the applicant, who have been entrusted with the violation of examination papers, has not returned them. On the other hand they could be recovered only after conducting a search of ~~his~~ <sup>violating</sup> residential premises by the Police. It is also found that the applicant had been guilty of ~~secrecy~~. It is, therefore, contended that the applicant having been found as most unsuitable to be continued in service, has been removed under the CCS (Temporary Service Rules), 1965 and hence no enquiry was necessary as the order of termination carries no stigma.

4. A perusal of the impugned order does not show that it carries any stigma. A simple innocuous order was passed terminating the services. It is not in dispute that the applicant was on probation and during probation it was found that the applicant had conducted himself in a most unbefitting manner of an examiner. He has not even kept the examination papers in his room and has not returned them in spite of several reminders. They could be recovered only by the Police. We do not, therefore, find that any enquiry was called for such which has been held against him for his misconduct. No as no attempt was made by the respondents to punish the applicant for any misconduct. What all the

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respondents have done was to recover the examination papers which were in possession of the applicant. The decision cited by the learned counsel for the respondents Dipti Prakash Banerjee Vs. Satyendra Nath Bose, National Centre for Basic Sciences, Calcutta & others in 1999 (3) SCC 60 has no application to the facts of this case. It was clearly held in the judgment that in a case where misconduct has been enquired into and an enquiry has been done behind the back of the accused officer and the same has been taken as a 'foundation' for the purpose of termination of an officer then the order is bad, as being stigmatic as an enquiry having been conducted without serving the chargesheet or allowing the charged officer to defend his case. This case does not assist the applicant as no such enquiry has been conducted. The OA, therefore, fails and is accordingly dismissed. No costs.



( GOVINDAN S. TAMPI )  
Member (A)



( V. RAJAGOPALA REDDY )  
Vice Chairman (J)

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