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Central Administrative Tribunal
Principal Bench

O.A. 2991/97

New Delhi this the 9th day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri S.A.T. Rizvi, Member(A).

Puspraj,
S/o Shri Rohtas Singh,
R/o VIII & PO - Pandwala Kalan,
New Delhi-110 043. Applicant.

(By Advocate Shri Gyaneshwar proxy for Shri U. Srivastava)

Versus

1. The Lieutenant Governor of Delhi,
L.G. House,
New Delhi.
2. The Inspector General of Prisons,
Prisons Headquarters, Near Lajwanti
Garden Chowki, Delhi. Respondents.

(By Advocate Shri Ajesh Luthra)

O R D E R (ORAL)

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

The applicant, who was appointed to a temporary post of Warder with the respondents on 12.6.1997, is aggrieved by the termination order dated 2.12.1997 passed by them under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as 'the Rules').

2. According to the applicant, he had been serving with the respondents after his appointment on 12.6.1997 as Warder to their entire satisfaction and there was, therefore, no reason for passing the aforesaid impugned termination order. The learned proxy counsel for the applicant has relied on the judgement of the Tribunal in Amritlal Chhaganlal Vs. Senior Supdt. of Post Offices, Junagadh & Ors. (1988(7) ATC 830) and a recent judgement of the Supreme Court in Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences (1999(3) SCC 60). His

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contention is that the impugned termination order is without any stigma but even then the respondents ought to have held ^{an} ~~the~~ full-fledged inquiry under the provisions of Article 311(2) of the Constitution read with the CCS (CCA) Rules, 1965. He has submitted that the impugned order does not give any reason for his termination which is illegal and arbitrary. He has, therefore, prayed that the impugned termination order dated 2.12.1997 may be quashed and set aside.

3. The respondents in their reply have controverted the above facts. According to them, a decision had been taken by the competent authority to terminate the services of the applicant, who was a probationer which could be done either by giving him one month notice or one month pay in lieu thereof. According to them, they have complied with the provisions of Rule 5(1) of the Rules. Shri Ajesh Luthra, learned counsel has submitted the relevant File No. F.11 (168) CJ/imp/97 (Vig. Section) (Year 1997-98) for our perusal. He has also relied on the Tribunal's order dated 6.8.1998 in Ramesh Kumar Vs. Inspector General (Prisons), Central Jail, Tihar, Delhi (OA 85/97), decided on 6.8.1998 (copy placed on record). Learned counsel has submitted that in similar circumstances, as in the present case, where the applicant was also found conducting himself which ^{is} ~~was~~ not in accordance with the Prison Rules, and that too when he was a probationer, the action of the respondents has been upheld in Ramesh Kumar's case (supra). His contention is that on the basis of the records, the competent authority was satisfied that it was not in public interest to continue him in service and hence, an order of termination simpliciter has been passed

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● In accordance with the Rules which is legal and valid. Learned counsel has, therefore, prayed that the O.A. may be dismissed.

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4. We have carefully perused the pleadings and the submissions made by the learned counsel for the parties.

5. On a perusal of the termination order dated 2.12.1997, it is seen that the competent authority has passed this order in terms of Rule 5(1) of the Rules and this is an order simpliciter and does not cast any stigma on the applicant. In the offer of appointment made to the applicant vide Memorandum dated 7.5.1997 (Annexure A-2), it is noticed that the applicant was to be appointed in a temporary post of Warder and placed on probation for a period of two years from the date of appointment. Admittedly, the applicant was appointed as Warder in terms of this offer of appointment on 12.6.1997 and the impugned order has been passed approximately six months later, that is well within the period of probation. In the offer of appointment, it ^{is} ~~was~~ clearly mentioned that the appointment of the applicant is liable to be terminated at any time by one month notice given by either side and that he is liable to be discharged without any notice in case his probation was not found to be satisfactory.

6. The contention of the learned counsel for the applicant that the motive for termination of the applicant's services would require that a full inquiry under the provisions of Article 311 (2) of the Constitution read with the CCS (CCA) Rules has to be held, cannot be accepted in the facts and circumstances of the case. On perusal of the records submitted by the respondents, we are also satisfied

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that the termination order in this case has neither been passed arbitrarily nor unreasonably, but it has taken into account the relevant facts which occurred on the night of 15.11.1997. We respectfully agree with the reasoning given by the Tribunal in Ramesh Kumar's case (supra). In the present case also, the respondents were justified in terminating the services of the applicant in exercise of the powers vested in them under Rule 5(1) of the Rules by passing a simple order of termination. This order does not also cast any stigma on the applicant. In the facts and circumstances of the case, we are also satisfied that the judgement relied upon by the learned counsel for the applicant would not assist him as we do not think that in the present case any inquiry had to be held by the respondents, as contended by him. It appears that the applicant has also not filed any appeal against the impugned order dated 2.12.1997 and on this ground also the O.A. is liable to be dismissed. We are also satisfied that the respondents have not acted arbitrarily or in ^{any way} whimsical manner.

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

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(S.A.T. Rizvi)
Member(A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

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