

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 531/1997

New Delhi this the 7th day of September, 2000

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Mahesh Chand Sharma, S/o Sh. Om Prakash,
Ex-Labourer (Unskilled), Ordnance Factory,
Muradnagar, R/o Village Kaneja,
P.O. Kaneja, Distt. Ghaziabad, U.P.

... Applicant

(By: Advocate Sh. A.K. Bhardwaj)

Versus

1. Union of India, through The Secretary, Ministry of Defence Production, Central Secretariate, South Block, New Delhi
2. The Director General/Chairman, Ordnance Factories, 10-Auckland Road, Calcutta (W.B.)
3. The General Manager, Ordnance Factory, Muradnagar, District Ghaziabad, U.P.

... Respondents

(By: Advocate Sh. S. Mohd. Arif)

O R D E R

HON'BLE SH. S.A.T. RIZVI, MEMBER (A)

The applicant, a casual labourer (unskilled), aggrieved by the respondent's order dated 4.9.1995, has filed this O.A. on the ground that the said order of termination (Annexure A-1) is bad in law being in violation of Rule 5 of the CCS (TS) Rules, 1965. He has also contended that termination has been done in violation of the principles of natural justice and the provisions of Article 311 of the Constitution. Another ground taken by him is that the termination of his services also contravenes the provisions of DOPT's O.M. No. 14014/6/86-Estt.(D) dated 30.6.1987. He has prayed for quashing of the impugned order dated 4.9.1995 and

issuance of a direction to the respondents to reinstate him in service with all the consequential benefits.

2. The main ground covered by the respondents in their reply is that in terms of the letter of appointment (Annexure R-1) issued to the applicant, his services could be dispensed with without prior notice.

3. We have heard both the learned counsel and have also perused the material on record.

4. One of the main point for adjudication before us is whether the services of the applicant could be terminated in the face of the provisions of CCS (TS) Rules, 1965. After a perusal of the said rules and the decision of the Govt. of India dated 26.8.67 recorded at No.5 at page 12 of the CCS (TS) Rules, 1965 (Edd.-1993). We are not inclined to favour the applicant as he was appointed on probation vide respondents' letter of 14.3.95. For the sake of convenience, the aforesaid decision is reproduced below:

"Non-applicability of Rule 5 for termination of service in the case of probationers/persons on probation." A question has arisen whether this rule should be invoked also in the case of persons appointed on probation, where in the appointment letter a specific condition regarding termination of service without any notice during or at the end of the period of probation (including extended period, if any), has been provided. The position is that the CCS (TS) Rules do not

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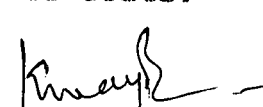
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specifically exclude probationers or persons on probation as such. However, in view of the specific condition regarding termination of service without any notice during or at the end of the period of probation (including extended period, if any) it has been decided, in consultation with the Ministry of Law, that in cases where such a provision has been specifically made in the letter of appointment, it would be desirable to terminate the services of the probationer/person on probation in terms of the letter of appointment and not under Rule 5(1) of the CCS (TS) Rules, 1965.

5. However, the OA does not seem to be barred by limitation and further there is nothing to show that the order of termination attracts the provisions of Article 311 (2) of the Constitution in the circumstances of the present case.

6. In the result, the OA fails on merits. It is, therefore, dismissed. No order as to costs.


(S.A.T. RIZVI)
MEMBER (A)


(KULDIP SINGH)
MEMBER (J)

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