

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.2185/94

New Delhi: September 20th, 1995.

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HON'BLE MR. S.R.ADIGE, MEMBER (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Hem Raj,
s/o Shri Man Mohan,
Casual Labour,
under Senior Administrative Officer,
Ministry of Defence,
Office of the Joint Secretary (Training)
& CAO,
C-II Hutments,
Dalhousie Road,
New Delhi.

.....Applicant.

By Shri B.S.Mainee, Advocate.

Versus

Union of India through

1. The Secretary,
Ministry of Defence,
South Block,
New Delhi.

2. The Dy. Chief Administrative Officer,
Ministry of Defence,
C-II, Hutment,
Dalhousie Road,
New Delhi.

3. The Sr. Administrative Officer,
Ministry of Defence,
in the Office of Joint Secretary (Training)
& CAO,
C-II Hutments,
Dalhousie Road,
New Delhi

.....Respondents.

By Shri M.S.Ramalingum, Departmental Representative.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member(A).

The applicant Shri Hemraj was appointed as a daily rated Casual Labourer, after being sponsored through the Employment Exchange on 10.12.87. He worked from 10.12.87 to 7.3.88 when his services were discontinued, but he was reappointed from 28.3.88. By office order dated 4.3.94 he was accorded temporary status (Annexure -A3). When his turn came for regularisation, the attestation form duly filled in by the

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applicant was sent to the police authorities for verification of character and antecedents. On perusal of the verification report from the police authorities, it was revealed to the respondents that the applicant had been arrested by Chandni Mahal Police and a FIR No. 89 dated 23.4.89 under the Gambling Act was registered against him and he was produced in court and a fine of Rs.100/- was imposed on him.

2. The attestation form contained a clear warning on its first page itself that suppression of any factual information would be a disqualification and was likely to render the candidate unfit for employment under the Govt. In spite of that, the applicant had not disclosed details of his arrest, conviction and fine in his attestation form. The applicant was asked to explain vide Note dated 16.2.94 (Annexure-R1), and finding the explanation unsatisfactory, the respondents held that he was lacking in moral character and integrity and he was not suitable for retention in Govt. service, particularly in ^{a sensitive} department such as the Defence Department and his services were terminated vide Note dated 20.10.94 (Annexure-RIII). It was later clarified by impugned order dated 24.10.94 (Annexure-A1) that said note may be treated as one month's notice pertaining to termination of the applicants' service, which would commence from the date of issue of the Note under reference i.e. 20.10.94. It is against the termination of his services that the applicant has filed this O.A.

3. We have heard Shri Mainee for the applicant and Shri Ramalingam, Departmental Representative for

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the respondents.

4. Shri Mainee has relied upon various authorities in support of his contention that the impugned order warrants judicial interference.

5. These rulings are Miss N.G.M. Vij Vs. G.M.W. Railway, -ATR 1987 (1) CAT 380; Mohan Lal Vs. Bharat Electronics-1981(3) SCC 225 and A. Padmavalley & others Vs. CPWD & Telecom. in Full Bench Decisions Vol. II Bahri Brothers. All these rulings relate to the application of the relevant provisions of the I.D. Act. In Miss Vij's case (Supra), it has been held that the services of even a casual or seasonal workman who rendered continuous service cannot be terminated without complying with the provisions of Section 25 F Ind. Disputes Act. None of these rulings help the applicant, because w.e.f. 1982 Section 2(j) Ind. Disputes Act specifically excludes any activity of the Govt. relating to its sovereign functions, and as the applicant was working in the Defence Ministry which is engaged in activities relating to sovereign functions of the State, he cannot be understood to be working in an Industry and hence is not covered by the I.D. Act. In this connection, Departmental Representative Shri Ramalingum has invited our attention to the Ruling in R.K. Sharma Vs. UOI -AISLI 1994(3) 228 which confirms this view. These authorities therefore do not help the applicant.

6. The next authority relied upon is N.V. Prasanna Vs. UOI & others - ATR 1990(1) CAT. In that case, the applicant who was an apprentice Mechanic was terminated from service for withholding in his attestation form of the pendency of a criminal case

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against him. The applicant's O.A. was allowed and he was ordered to be reinstated on the ground that the respondents had not produced any document to substantiate their claim that the applicant was aware of his involvement in a criminal case at the time. That case is entirely different on facts from the present one because in the present case the applicant was fully aware that he was convicted in a criminal case, (however minor the penalty may have been) at the time he filled in the attestation form.

7. We have given the matter our careful consideration. We note that the attestation form contained a specific warning that suppression of any factual information would be a disqualification and was likely to render the candidate unfit for employment. In spite of that warning, the applicant did not mention his arrest, conviction and fine in the case under the Gambling Act and failed to tender any satisfactory explanation, ^{he} ~~upon~~ being a purely temporary employee, it cannot be said that the ~~the~~ ^{an} impugned order suffers from such a legal infirmity as would warrant our judicial interference.

8. We note however that by the Tribunal's interim order dated 17.11.94 effect has not been given to the impugned order, ^{in and the interim order} ~~which~~ has been extended from time to time, and the applicant still continues to be retained in service. Shri Ramalingam has also stated at the bar during hearing, that there have been no complaints in respect of the applicant's work, which continue to be satisfactory. Having regard to

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these facts, if the respondents are disposed to treat the applicant's case as one of fresh appointment w.e.f. 17.11.94, i.e. the date of the Tribunal's interim order, nothing contained in this judgment will act as a bar to their doing so.

9. This O.A. is disposed of accordingly.
No costs.

A Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
MEMBER(A)

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