

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

...

O.A.678 of 1994

Dated New Delhi, this the 6th day of April, 1994.

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman(J)

Hon'ble Mr B. K. Singh, Member(A)

Shri Anthony

S/o Shri R. K. Swamy  
R/o G-I-13, Madangir  
NEW DELHI-110062

... Applicant

By Advocate Shri T.C. Agarwal

VERSUS

Union of India, through  
Director, Narcotics Control Bureau  
West Block No.1, Wing No.5  
2nd Floor, R. K. Puram  
NEW DELHI-110066

... Respondent

By Advocate : None.

O R D E R (Oral)

Hon'ble Mr Justice S. K. Dhaon, VC(J)

In the purported exercise of power under proviso to Sub Rule(1) of Rule 5, CCS(Temporary Service) Rules 1965 (the Rules) the Dy. Director (Admn.) passed an order dated 22.1.92 terminating the services of the applicant, after offering him one month's salary in lieu of one month's notice. This order is being impugned in the present application.

2. We have gone through the contents of the O.A. and we find that in it the material facts have <sup>been</sup> ~~stated~~ correctly. However, we find on record the representation of the applicant dated 9.9.93 addressed to the Director General, Narcotics Control Bureau in the form of annexure A-6 of the O.A. According to this representation, the applicant commenced his duties as a Driver w.e.f. 17.9.90 and he continued doing so till January 1992 when his services were terminated vide order dated

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22.1.92. On 5.1.93 the applicant was temporarily engaged as a Driver on daily wages Rs.44/- per day (annexure A-4). On 2.4.93, an order was passed terminating the services of the applicant from the forenoon of the said date.

3. No explanation has been offered in the U.A. for not challenging the legality of the order dated 22.1.92 before 22.1.94 when this U.A. was presented before this Tribunal for the first time. It appears that the applicant agreed to the said order and that is why he accepted the short-term appointment on daily wages w.e.f. 5.1.93. This is enough to dispose of this application and reject it as barred by limitation.

4. The learned counsel has vehemently urged that the applicant is really aggrieved by the said order dated 2.4.93. He has urged that the foundation of the order is really a fall out of pendency of a case against the applicant under Section 192 of IPC. According to him, the power is not to be exercised under the proviso to sub-rule(1) of Rule 5 of the Rules, during the pendency of criminal proceedings. We are unable to appreciate this. No allegation of malafide has been alleged against any officer. It is a fact that the applicant was working as a Driver in a sensitive department like the Directorate of Narcotics Control Bureau. It was enough to enable the authority concerned to come to the conclusion that it was not desirable that the Driver facing criminal proceedings in the competent court of law should be considered suitable to continue as a temporary servant. The order dated 22.2.92 therefore is passed on irrelevant considerations.

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5. If the sole reason for terminating the services of the applicant was the pendency of the aforesaid criminal case against him, the authority concerned shall consider the case of the applicant for a fresh engagement as a Driver on merit and in accordance with law if and when he (applicant) is acquitted. While doing so if the applicant was sponsored through Employment Exchange at the time of his initial appointment as Driver, his case need not be sponsored by the said Exchange again.

With these observations the U.A. is disposed of.

There will be no order as to costs.

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(B. K. Singh)

Member (A)

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(S. K. Dhaon)  
Vice Chairman (J)

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