

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 1815/1994

New Delhi this the 13th day of December 1994.

Hon'ble Mr. C.J. Roy, Member (J)  
Hon'ble Mr. S. R. Adige, Member (A)

Shri Man Mohan Sharma  
Chowkidar  
under Director  
Pharmacopoeial Laboratory for  
Indian Medicine  
Ministry of Health & Family Welfare  
C.G.O. Complex  
Kamla Nehru Nagar  
Ghaziabad-201 002.

....Applicant

(By Shri B.S. Maini, Advocate)

Versus

Union of India through

1. The Secretary  
Ministry of Health & Family Welfare  
Govt. of India  
Nirman Bhavan  
New Delhi.

2. The Director,  
Pharmacopoeial Laboratory for  
Indian Medicine  
Ministry of Health & Family Welfare  
C.G.O Complex  
Kamla Nehru Nagar  
Ghaziabad - 201 002

....Respondents

3. The Estate Office (Asstt. Estate Manager)  
Govt. of India, Farisabad.

(Through Shri M.M. Sudan, Advocate)

JUDGEMENT (Oral)

Hon'ble Mr. C.J. Roy, Member (J)

We have heard counsels for both parties. The applicant is a Chowkidar working with Respondent No.2. He was appointed on 11.7. 1984 as Chowkidar in Pharmacopoeial Laboratory for Indian Medicine, Ghaziabad on the recommendations of a select committee on temporary basis. His scale of pay was also fixed w.e.f. 10.3.86. It is alleged that the applicant (Annexure A.5 of the OA) was appointed

in a substantive capacity in Group-D post, consequent upon a DPC committee recommendations.

2. The applicant claims that the applicant being regular and substantive holder of the post is governed by the CCS(CCA) Rules and enjoys the protection of Article 311 of the Constitution of India. The applicant further alleges that on 12.8.94 he went to office to enquire about his annual increment and met the respondent No.2 in this connection. The Respondent No. 2 however took objection to the applicant's taking liberty of complaining to him about his annual increment and other difficulties. It is alleged that on 12.8.94 itself, the services of the applicant were terminated with immediate effect by respondent No.2. It is also alleged that Respondent No.2 has levelled false, baseless and concocted allegations against the applicant of being drunk on duty and appearing in the office in intoxicated condition and demonstrating misbehaviour in the office before the staff. These allegations are made against the applicant as stated in para 4.8 of DA. The applicant further states that the termination order was passed by the respondent No. 2 without giving him any opportunity of hearing much less holding disciplinary proceedings as per statutory rules and law. The applicant made a representation against the termination order, dated 18.8.94 (A-6) which is not disposed of. Hence he filed this application claiming relief that the said termination order be quashed and he should be reinstated with all consequential benefits.

3. In this connection, we see that on 9.9.94 this Bench had granted an interim direction to the respondent No. 3 not to evict the applicant from Quarter No.693, Type I Kamla Nehru Nagar, Ghaziabad. The said order was further extended. The respondents files counter stating that the applicant was employed with Respondent No.2 at Ghaziabad.

4. The respondents have taken preliminary objection saying that this Tribunal has no jurisdiction. Shri B.S. Maini, learned counsel for the applicant filed rejoinder which is now taken on record in which he states that after the termination order was passed, the applicant preferred an appeal to Respondent No.1 who is in Delhi and this point has also been raised in the original application. Under the circumstances, we reject the objection regarding the jurisdiction of the Tribunal to entertain the case. The respondents have claimed in para 4.6 of the counter that on several occasions, the applicant was found absconding from the duty or found in intoxicating condition regularly. It is also alleged that his behaviour is not good. For contesting the case, these allegations are not germane to the case. Therefore, we propose to dispose of the case from a different angle. The learned counsel for the respondents Shri M.M. Sudan, apart from filing counter, drew our attention to the fact that the applicant misbehaved with senior officials in an intoxicating condition and even intimidated the officials prior to dismissal order issued to the applicant. Apart from previous history of bad conduct of the applicant, Shri M.M. Sudan stated that termination order was issued to the applicant and he was dismissed without holding any enquiry. This admission by the learned counsel is sufficient to establish the truth. The natural justice has been totally violated by the respondents in issuing the above termination order dated 12.8.94. The basic principle of natural justice is inbuilt and inherent in the service jurisprudence. Without notice much less holding an enquiry, a person to whom Article 311 of the Constitution and CCS(CCS) Rules apply, cannot be thrown out of service. There is nothing to prevent the respondents to hold disciplinary proceedings before taking the extreme step of dismissal of an employee. In this case, it has not been done. Therefore, we feel it is a fit case for interference and we dismiss this OA with the following directions to the respondents:-

(7)

(a) Termination order dated 12.8.94 be hereby quashed, and <sup>rehande</sup> any  
(b) Respondent No. 2 should take back the applicant from  
the date he was thrown out and pay all his back wages  
without applying the rule of 'no work no pay', and  
pay him all the consequential benefits.  
(c) Respondents are however given full liberty to proceed  
against the applicant in accordance with the law and  
take any action the law permits them to do.

This DA is disposed of with no costs to the parties.

*Arif Ali*  
(S.R.ADIGE)  
MEMBER (A)

*Parley*  
(C.J. ROY)  
MEMBER (J)