

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1998/2000

(A)

New Delhi, this 14th day of March, 2001

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P.Singh, Member(A)

Neeraj
C-51/A, Gali No.3, North Chachu Pura
Delhi-93 .. Applicant

(By Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Commissioner of Police
Police Hqrs., New Delhi
3. Joint Commissioner of Police
Northern Range
Police Hqrs. New Delhi .. Respondents

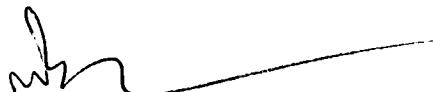
(By Mrs. Sumedha Sharma, Advocate)

ORDER

By Shri M.P. Singh

Applicant in the present OA has challenged the show cause notice dated 15.12.1999 and order dated 24.4.2000 passed by R-3 whereby his services have been terminated under Rule 5(1) of CCS (Temporary Service) Rules, 1965.

2. The uncontested facts of the case are that the applicant was enrolled as Constable in Delhi Police provisionally during 1998. While submitting the form for character and antecedent verification, applicant did not disclose his involvement in a criminal case and thus allegedly tried to seek employment in Delhi Police by adopting deceitful means. When this was detected by the respondents later on, a show cause notice for terminating his services was issued to the applicant on





18.5.99 under Rule 5(1) of CCS (Temporary Service) Rules, 1965; he submitted his reply on 1.6.99 and the said notice was vacated by the disciplinary authority (DA, for short) by its order dated 14.6.99. However, disagreeing with the decision of the DA, R-3 in his capacity as the reviewing authority, issued a fresh show cause notice on 15.12.1999 under 25(b) of Delhi Police (Punishment & Appeal) Rules, 1980 (RULES, for short) for quashing the order of DA. Applicant submitted his reply on 20.1.2000 and he was also heard in orderly room on 3.3.2000. Not satisfied with the plea taken by the applicant, R-3 passed the impugned order of termination dated 24.4.2000. His appeal against the impugned order of termination was considered and rejected by R-2 vide his order dated 14.9.2000, following the ratio of the judgement in the case of Delhi Admn. Vs. Sushil Kumar in CA No.13231/96 arising out of SLP(C) No.5340/1996.

3. The main grounds taken by the learned counsel for the applicant during the course of the arguments are that R-3 has passed his order without any jurisdiction or competence to exercise the power of review as the Full Bench of this Tribunal in its judgement in OA No.77/97 (HC Raj Pal Singh Vs. UOI) has held the provision of Rule 25(b) of the RULES as ultra vires. At the same time, R-3 does not have power to terminate the services of the applicant under Rule 5(I) ibid.



(9)

4. The learned counsel for the respondents submitted that the services of the applicant have not been terminated under the provisions of Rule 25(b) of the RULES and this provision has wrongly been quoted in the show cause notice issued to him on 14.12.1999. His services have been terminated under Rule 5 of CCS (Temporary Service) Rules, 1965.

5. Rule 5(1) ibid provides that services of a temporary government servant who is not in quasi-permanent service shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant and the period of such notice shall be one month. Rule 5(2)(a)(iv) ibid stipulates that where a notice is given by the appointing authority terminating services of a temporary government servant, or where the service of any such government servant is terminated either on the expiry of the period of such notice or forthwith by payment of pay plus allowance, the Central Government or any other authority specified by the Central Government in this behalf or a Head of Department, if the said authority is subordinate to him, may, of its own motion or otherwise, re-open the case, and after making such inquiry as it deems fit, make such other order in the case as he may consider proper, provided that except in special circumstances, which should be recorded in writing, no case shall be reopened under this sub-rule after the expiry of three months from the date of notice in a case where notice is given.



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6. In this case, a show cause notice was given to the applicant by the appointing authority to terminate his services on 18.5.99. However, the same was withdrawn by the appointing authority on 14.6.99. R-3, the next higher authority, issued a fresh show cause notice on 15.12.1999, i.e. after a period of more than six months from the date of earlier show cause notice, that too without recording the special circumstances for doing so. Thus, on this ground the termination order dated 24.4.2000 is not sustainable and liable to be struck down.

7. For the detailed reasons discussed above, the present OA is allowed and the impugned show cause notice dated 15.12.99 and termination order dated 24.4.2000 are quashed and set aside. The applicant shall be reinstated in service forthwith with all consequential benefits. There shall be no order as to costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)