

(11)
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A.344/94 IN
O.A.527/93

New Delhi this the 10th Day of October, 1994.

HON'BLE MR JUSTICE S.K. DHAON, VICE CHAIRMAN
HON'BLE MR S.R. ADIGE, MEMBER (A)

Shri Naiyar Khan,
M.P. Flats,
123, South Avenue,
NEW DELHI

...Applicant

(By Advocate : None)

VERSUS

1. Union of India, through
The Secretary,
Ministry of Home Affairs,
Govt of India,
New Delhi.

2. The Assistant Director,
Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India,
NEW DELHI.

....Respondents

(By Advocate : None)

ORDER (By Circulation)

Shri S.R. Adige, Member (A)

In this application dt.5.10.94 bearin R.A.No.344/94, Shri Nair Khan has prayed for review of Judgement dated 27.04.93 in O.A.527/93 Shri Naiyar Khan Vs Union of India & Others.

2. At the outset, it is noticed that this Review Application is grossly time barred, and it is therefore hit by limitation. A petition for condonation of delay has been filed, in which it has been stated that the impugned judgement dated 27.04.93 was decided on merit when neither counsel

for the applicant nor for the respondents appeared. Thereafter the applicant filed a M.P. bearing No.1245/93 for recalling the Order dated 27.04.93, which, after being listed on different dates, was disposed of by the Tribunal dated 1.02.94 stating that O.A. bearing No.527/93 was disposed of on 27.04.93, and therefore the M.P. was misconceived and if the applicant had any grievance his remedy lie in filing a Review Application. The applicant states that he is a resident of Orissa and was informed of the said order dated 15.09.94, and immediately thereafter filed the present Review Application. These grounds are not adequate enough to explain the great delay in filing this Review Application. The applicant and his counsel should have been vigilant in respect of the orders passed in M.P.1245/93, and if a review application was to be filed, the same should have been filed well in time, and not after the lapse of over nearly 1½ years.

3. That apart, the impugned judgement dated 27.04.93 clearly notices that the applicant was purely temporary, and his appointment could be terminated at any time by a month's notice given by either side, and within a period of six months from the date of his appointment without any notice or without any reason assigned. The Order terminating applicant's services was issued in pursuance

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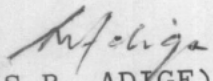
of the proviso to Sub-rule (1) of Rule 5 of the CCS (Temporary Service) Rule, 1965, and was an order simpliciter.


4. The applicant has alleged that a Show-cause notice was issued to him dated 8.01.91 by the Respondents, as to why disciplinary action should not be taken against him for his indisciplined behaviour, and the petitioner had duly replied to the Show-cause notice, which was not considered, and thereafter the order of termination followed, which according to him was punitive in nature and hence the requirements of Article 311 (2) of the Constitution should have been complied with.

5. However, in the case of State of U.P. and Another Vs. Shri K.K. Shukla, J.T. 1991(1) S.C.-108 quoted by the applicant himself in this Review Application, ^{it} it is clear that the question of lifting the veil to determine ^{when} ~~why~~ the applicant's service had been terminated, would arise only if a formal inquiry had been instituted against the applicant by framing charges, and meanwhile the applicant's services had been disengaged. In the present case, according to the applicant's own admission no charges had been framed against him, ^{and in} the services were terminated in accordance with the terms and conditions of his services by an Order simpliciter under Rule 5 (1) CCS (TS) Rule, 1965.

6. A decision/judgement/order of the Tribunal can be reviewed only if it comes within the

four corners of the Order 47 Rule (1) C.P.C.
and from what has been stated above, it is
clear that the present R.A. does not come
within the scope and jurisdiction of
Order 47 Rule (1). Under the circumstances
the R.A. is rejected.


(S.R. ADIGE)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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