

(b)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A.1925/89

Date of decision: 7.4.82

D.C.Sharma

.. Applicant

Versus

Delhi Administration & Another

.. Respondents

Sh.K.L.Bhatia .. Counsel for the applicant.

None for the respondents.

CORAM:

The Hon'ble Sh.Justice Ram Pal Singh, Vice Chairman(J)
The Hon'ble Sh.I.P.Gupta, Member(A).

J U D G E M E N T

(Delivered by Hon'ble Sh.I.P.Gupta, Member(A))

In this application the applicant, an ex-serviceman, on retirement from Army was reappointed as Havildar in Guru Teg Bahadur Hospital, Shahdara. A female patient made a compliant regarding outraging of her modesty. The respondents have pointed out in the counter that the applicant was a person identified to have assaulted the patient. The applicant was under suspension by order dated 30th September, 1987. A criminal case was also registered and processed against the applicant. In the criminal case the applicant was acquitted of the charge on the ground that the prosecution could not prove its case against him. Later an order simplicitor regarding termination of his services were issued on 16.11.87 under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965.

2. The short point involved in the case is whether in the circumstances of the case, ^{The} termination could be made by an order simplicitor. It

is now well settled that the protection of article 311 can be invoked not only by permanent public servants but also by the public servants who are employed as temporary servants and so there could be no difficulty in holding that if a temporary public servant is served with an order by which his services are terminated and the order is unambiguous, it indicates that the said termination is the result of harassment said to be imposed on him. He can legitimately invoke the protection of Article 311 and challenge the validity of the termination on the ground that the mandatory provisions of Article 311(2) have not been applied with. In this case the applicant was suspended and therefore, either the suspension order should have been revoked first or disciplinary proceedings should have been initiated against him. An order simplicitor of termination in this case could not be justified for the reason that the intention of the respondents was clear enough that a short route to termination was taken by taking the recourse under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965.

3. In the conspectus of the aforesaid facts the termination order dated 16.11.87 is set aside. The applicant will be reinstated in service. However, it is open to the disciplinary authorities to proceed against him disciplinarily and pass such orders as deemed fit, according to law, after following the prescribed procedures. With the aforesaid directions and order the application is disposed of with no order as to costs.

S. P. Gupta
(I.P.GUPTA)
MEMBER(A)

7/1/92

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN(J)