

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 322 of 1989

This 12th day April, 1994

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

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

Praveen Kumar,
11, Masjid Road,
Jangpura,
New Delhi.

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Applicant

By Advocate: None present

VERSUS

1. The Chief Commissioner
(Administration)
Income Tax, C.R. Building,
New Delhi.

2. Shri L.S. Pawar,
Deputy Commissioner (Admn.)
C.R. Building,
Income Tax Building,
New Delhi.

3. Union of India, through
The Secretary,
Ministry of Finance,
Government of India,
New Delhi.

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Respondents.

By Advocate: None present.

ORDER (Oral)

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

The applicant, is an ex-Staff Car Driver in the office of the Commissioner, Income Tax, challenges the legality of the order dated 14.11.88 passed by the Deputy Commissioner of Income Tax under proviso to sub-rule (1) of Rule 5, CCS (Temporary Service) Rules 1965 (the Rules).

2. It is applicant's own case that he had been appointed in a temporary capacity and he remained a temporary hand till the date of passing of the impugned order dated 14.11.1988. On 25.3.88 a memorandum was issued by the

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Inspecting Asstt. Commissioner of Income Tax. Therein, it is stated that, the applicant while working as a temporary Staff Car Driver, had taken the staff car to his residence on 16.3.88 and kept it there till 17th morning. He did that in spite of earlier instructions and in violation of Staff Car Rules. His explanation was called for. He submitted his explanation which was not found satisfactory. His conduct was found unsatisfactory and he was found unsuitable for the job and was therefore given an opportunity to show cause why his services should not be terminated under Rule 5 of the rules.

3. On 27.3.1988, the applicant furnished his reply to the aforesaid memorandum. From a bare reading of the impugned order dated 14.11.88, it is clear that there is no illegality involved in passing the same. It states that the services of the applicant are terminated under sub-rule (i) of Rule of the Rules forthwith and it is also stated therein that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his services.

4. The applicant preferred an appeal as provided for under rules. This appeal was preferred to the Chief Commissioner of Income Tax. During the pendency of the appeal, the applicant came to this Tribunal along with this OA. The respondents have annexed a copy of the order passed by the appellate authority, disposing of the said appeal, to their counter affidavit. The said officer

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dismissed the appeal. In his order the appellate authority has pointed out that the personal file of the applicant shows on the part of the applicant, that the lapse/which was the subject matter of the office memorandum referred to above, was not the first of its kind. The applicant joined service as a temporary govt. servant on 29.9.87. Within a short term of 6 months, he was warned orally to conduct himself in a satisfactory manner. Thereafter he was issued a memo on 14.3.88 as he did not perform the duty assigned to him on 11.3.88 in a satisfactory manner. It was found that after the duty was assigned to him on 11.3.88, he informed the officer concerned that the car was not in a working order, but on persuasion by the officer, he took the officer to the place of his duty. Further, when the officer came back to the parking lot to go back to the office, in spite of his waiting for more than half an hour, the applicant was ^{not} found, though the vehicle was found parked. The officer had, therefore, per force to take another vehicle to go back to his place of duty. The applicant claimed that he had gone for lunch at 2 p.m. for a period of 20 minutes after waiting for the officer for three hours. No evidence has been produced by him that he had informed anyone in the parking lot that he shall not be available till such and such time.


5. The Chief Commissioner of Income Tax has summed up his well discussed order :

"In view of the foregoing judgments and the facts mentioned above Shri Praveen Kumar's services were rightly terminated for dereliction of duty, unsatisfactory conduct and unsuitability for the job to which he was appointed."

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5. We have ^{gone} through the record of the case carefully and we are satisfied that the dominant reason ^{for} ~~for~~ passing the impugned order is unsuitability of the applicant to continue as a staff car driver. We are also satisfied that the foundation of the impugned order is not the misconduct on the part of the applicant, as has been alleged by him. Therefore, the impugned order is not of a stigmatic character. No ground therefore exists for interfering with the impugned order of the disciplinary authority. The OA is therefore dismissed but without any order as to costs.


(B.K. Singh)
Member (A)


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

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