

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1639 of 1988

12th day of November, 1993

Hon'ble Mr. J.P. Sharma, Member (J)

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

Dharam Bir Singh,  
S/o Shri Hari Singh Man,  
64, Sarai Pipal Thala,  
New Subzi Mandi, Delhi. ....

Applicant

By Advocate: Shri V.C. Sharma

Versus

1. Delhi Administration,  
through Lt. Governor,  
Raj Niwas, Delhi.

2. Directorate of Education,  
District North, Lucknow Road,  
Delhi. ....

Respondents

By Advocate: None

ORDER

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

This O.A. No. 1639/88, Dharam Bir Singh Vs. Delhi Administration, has been filed against Office Order No. 362 dated 29.2.88 and No.F.2(D-115)DN/ADMN-11748 dated 5.8.88 passed by the Deputy Director Education, terminating the services of the applicant.

2. The applicant is a trained Graduate Teacher (TGT) and was employed for two years with Municipal Corporation of Delhi. He was offered the job of Teacher under the Directorate of Education, Delhi Administration and



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on receipt of the offer of appointment in the pay-scale of Rs. 1400-2600 plus other allowances, he resigned his job with the M.C.D. and joined his new duties on 8.3.1988. This is annexure 'B' annexed with the O.A. The offer of appointment, inter alia, mentioned: "The under-mentioned candidate is hereby appointed to the post of T.G.T. (G) on temporary regular basis". It was further stipulated, "the teacher is to serve in the rural area schools for an initial period of 3 years compulsorily".

3. The services of the applicant were terminated vide order dated 5.8.1988 just after the expiry of a month. This is annexure 'A' annexed with O.A.

4. Reliefs sought contain prayers for (i) quashing and setting aside the impugned order dated 5.8.1988 with appropriate direction to the respondents; (ii) quashing and setting aside clause (ii) of appointment letter dated 29.2.1988; (iii) to declare the applicant as permanent employee who has a right to hold the post; and (iv) to award costs.

5. We heard the learned counsel for the applicant Shri V.C. Sharma. None was present for the respondents. We perused the records of the case. The respondents were directed to file their reply on the O.A. The respondents contested the application and filed the reply



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and made averments to the effect that there was no justification for grant of reliefs prayed for.

6. The learned counsel for the applicant argued that the impugned termination order under Rule 5 of CCS(Temporary Service) Rules 1965 was issued on the basis of information furnished by Deputy Commissioner (Special Branch) Delhi vide his letter No. 12643 CVR(SB) dated 29.4.1988 to the effect that the applicant was arrested in cases FIR No. 63 dated 28.3.87 under Section 448/427/386/411 and FIR No. 216 dated 28.11.87 under Section 325/34 IPC registered with Police Station, Adarsh Nagar, Delhi. The case is pending trial in the Court of D.C. Anand, Metropolitan Magistrate, Delhi. He felt that there was a stigma and that the applicant should have been afforded full opportunity to defend himself. The action of the respondents was by way of punishment passed on the information submitted by the DC (Special Branch), Delhi as quoted above. This was not an order simpliciter. The Hon'ble Supreme Court in umpteen number of cases have held that there is no question of lifting the veil to know the motive influencing the mind of the respondents when the order itself does not show any stigma attached to it. When the order is an order simpliciter not attaching any stigma,



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it leaves the applicant free to start fresh career in life which could not have been available to him if departmental proceedings under Article 311 had been initiated against him and there was a chance that he would have been awarded punishment in the departmental proceedings for not furnishing information of his ~~xxx~~ arrest under column 12 of the attestation form, when it was a duty on his part to do so. It was a suppression of vital fact touching his integrity. The Hon'ble Chief Justice Mr. Chagla has held that when a termination of service is within a specific rule or under a contract no stigma is attached and no evil consequences flow from it and as such it cannot be treated as an order by way of punishment and as such Article 311 of the Constitution is not attracted. There is no question of doing a research in the files of Police Department or the departmental files of Directorate of Education to find out the motive of the respondents when the appointment is a temporary one and the applicant had not been regularised. The appointment letter does not confer any right or title and as such the applicant has no case at all.

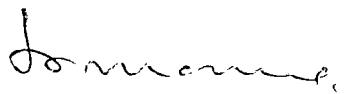


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7. In the light of the facts and circumstances  
of the case, we find no merits or substance in the  
application and accordingly it is dismissed.

No costs.

  
( B.K. Singh )  
Member (A)

  
( J.P. Sharma )  
Member (J)

V P C