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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.  
T.A. No.

255

198 6 D

DATE OF DECISION 3.7.87

Shri Ram Aashish Petitioner

Sh. B. S. Charya, A Advocate for the Petitioner(s)

Versus

Union of India Respondent

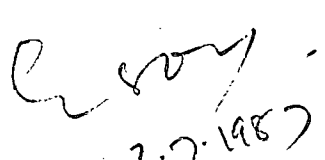
Shri M.L. Verma Advocate for the Respondent(s)

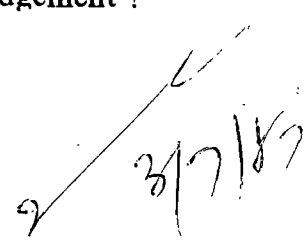
**CORAM :**

The Hon'ble Mr. Birbal Nath, Member (A)

The Hon'ble Mr. G. Sreedharan Nair, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?

  
( G. Sreedharan Nair )  
Member (J)

  
( Birbal Nath )  
Member (A)

Dated :- 3.7.1987.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN. No. 255 of 1986

Dated of Decision 3.7.87

Shri Ram Ashish

.... Applicant

Vs.

Union of India

.... Respondents

CORAM:- Hon'ble Mr. Birbal Nath, Member (A)  
Hon'ble Mr. G. Sreedharan Nair, Member (J)

For the applicant ..... Shri B.S.Charya, Advocate

For the respondents ..... Shri M.L. Verma, Advocate

( Judgement of the Bench delivered by Hon'ble  
Mr. Birbal Nath, Member (A) ).

JUDGEMENT

This is an original application No. 255 filed in April, 1986 before the Tribunal under Section 19 of the Administrative Tribunals Act. <sup>the</sup> Per this application, applicant, Shri Ram Ashish, who had been working as Safai Karamchari in Raj Rifles Regiment Centre, Delhi Cantt, has prayed that the order of termination dated 13/18th September, 1984 passed against him should be set aside and it should be held that he continues in service without any break with full salary and allowances as well as other benefits. It may be noted here that the applicant was never served with the termination order but has not been allowed to join his duties.

2. Facts leading to the application are that the applicant had joined as Safai Karamchari in Raj Rifles Regiment Centre, Delhi Cantt in March, 1970. The applicant avers that he had fallen seriously ill in March

contd....

1984. He underwent private treatment and after availing the leave he reported for duty in June 1984 but he was not allowed to join duty and no reasons were assigned therefor. No chargesheet was issued to him. No opportunity was afforded to him to explain his conduct. Proceedings were taken to evict him from the Government quarter allotted to him. During the proceedings the applicant came to know that some order was passed on 13/18th September, 1984 for terminating the service of the applicant. Applicant continued to represent. He claims that he was a permanent employee and his services could be terminated under the Central Civil Services (Classification, Control and Appeal) Rules, 1964.

3. In the counter affidavit it was averred that termination notice was served upon the applicant vide office letter No. 2898997/Ramashish SW/31/Q5 dated 25th April, 1985 in terms of Delhi & Rajasthan Area Order No. 17/84 and Central Civil Service Leave Rules 1932. It was also averred that the applicant had not approached the Tribunal with clean hands as during the proceedings in the court of Shri P.K. Bahri, Additional District & Sessions Judge, Delhi, it was stated that the applicant had filed some case before the Hon'ble High Court regarding termination of service and it was also stated before the Estate Office that his services had not been terminated.

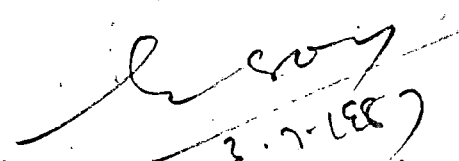
4. We have heard the arguments advanced at the bar and perused ~~xxx~~ the pleadings of the parties. The main ground of the respondent is that the applicant's case was duly considered by the Additional District Judge, Delhi and his appeal was rejected and the

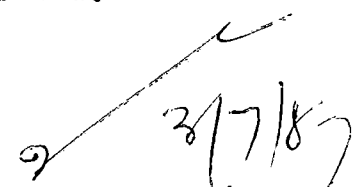
applicant had approached the Tribunal by concealing facts of the case. Though there are some contradictions in the submissions made in the application filed before the Tribunal and as made out in the judgement delivered by Additional District Judge, Delhi, we have to examine if the so called notice of termination / termination order were legal and had their foundation in the Rules governing the service of the applicant. We find that the respondent has conceded that the applicant was working as civilian employee under them though he was never confirmed and it is so conceded in their reply in Para 6(v) filed by the respondent that the applicant was quasi-permanent and not permanent. In view of this averment it is clear that the services of the applicant could be terminated only according to process of law and rules governing his service and not otherwise. The respondents have taken the plea that the applicant was duly served with termination notice in accordance with the Departmental Standing order i.e. Delhi & Rajasthan Area Order No. 17/64 and Central Civil Service (Leave) Rules 32. We would not go into the internal order of the regiment as it cannot have the force of law of statute. We have to see whether the provisions of Rule 32 of the Central Civil Service (Leave) Rules conferred any power on the respondent to terminate the services of the applicant. Rule 32 is regarding the grant of Extraordinary Leave to a Government servant and sub-rule (1) of the Rule reads as under:-

- (1) Extraordinary leave may be granted to a Government servant (other than a military officer) in special circumstances:-
  - (a) When no other leave is admissible;
  - (b) when other leave is admissible, but the Government servant applies in writing for the grant of extra-ordinary leave.

contd.....

We do not find any provisions in the rule as to confer any power on the respondent to terminate the services of the applicant. Even though respondent can refuse the leave to the applicant and leave cannot be demanded as of right, the services of the applicant could be terminated only in accordance with <sup>the Rules or</sup> the principles of natural justice. We find that the respondents have not terminated the services of the applicant under the provisions of any statutory rules and have rather relied on a departmental order and they are misconstruing ~~xx~~ Rule 32 of the C.C.S (Leave) Rules. As such, we find that the services of the applicant have been terminated not in a legal manner and this termination is not sustainable under law. We, therefore, quash the termination of service of the applicant and he will have to be deemed in service. However, this order does not debar the respondents from taking action against the applicant under the law.

  
( G. Sreedharan Nair )  
Member

  
( Birbal Nath )  
Member

dated:- 3.7.87.