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IN THE CENTRL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 623 of 1986

Date of decision 6.7.92

Suresh Chandra

Applicant

Dr. S.P. Shirma

Counsel for the applicant

vs.

Union of Indi

Respondents

Shri N.S. Mehta,

Senior Standing

Counsel for the respondents

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. I.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal singh, Vice-Chairman (J).)

J U D G M E N T

The applicant joined the Central Bureau of Investigation provsionally on a temporary post of Sub-Inspector of Police and was detailed to complete his training in S.V.P. National Police Academy, Shivrampalli, Hyderabad. The applicant joined the training on 24.10.81. According to the applicant, he completed the training in the said Academy and was posted in Lucknow with effect from 17.7.82. He joined his duties at CBI Lucknow after institutional training on 30.7.82 for practical training. After completion of the practical training, the applicant was posted at New Delhi. The applicant executed a bond (a contract between the parties). According to the terms of this bond (Annexure I), if the applicant wanted to resign his post, during the period of training, or within three years

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of successful completion of his training or refusing to serve the Government for a minimum period of three years from the successful completion of the training, then this bond amount of Rs. 10,000/- shall be forfeited.

2. The applicant submitted his resignation from the CBI on 12.6.86 with the request that it should be made effective from 12.7.86 (including one month's notice period). The respondents rejected the prayer for resignation on 6.8.86 on the ground ^{successful} that the applicant has not completed three years after completion of the training. His resignation can be accepted only on forfeiture of Rs. 10,000/- according to the terms of the bond. By this O.A., filed under Section 19 of the Administrative Tribunals Act of 1985, the applicant prays for quashing this order restraining the respondents from realising the bond amount of Rs. 10,000/- from him.

3. The respondents on notice appeared and opposed the contents of the O.A., inter alia, raising the point that the applicant absented from training from 6.9.80. Then, he was allowed to join the next batch in the year 1981 and the intervening period was treated as extraordinary leave. The applicant joined training on 24.10.81 and after completion he was posted at Lucknow. According to the respondents, the applicant did not successfully complete his training because vide respondents' document dated 5.8.82, the applicant failed in four subjects. Hence, the respondents are entitled to forfeit the bond amount. During the pendency of this O.A., a Bench of this Tribunal on 4.9.86 passed an interim order in favour of the applicant directing the respondents to accept the resignation of the applicant as an interim measure and relieve him forthwith to join his new assignment elsewhere. In consequence, the respondents accepted the resignation and the applicant joined his new post in other Department. While passing this interim order, the Bench also observed that the amount of salary and other allowances due to the applicant be not paid.

4. We have heard the learned counsel for the applicant, ~~Dr.~~ S.P. Sharma, and the Sr. Standing Counsel for the respondents, Shri N.S. Mehta. On perusal of the annexure filed by the respondents

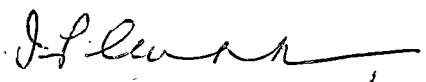
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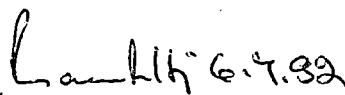
dated 5.8.82, it is clear that the applicant failed in 4 papers of PT, Drill, Weapon Training and Unarmed Combat. Thus, according to the bond, the applicant has not successfully completed the training. Successful completion of the training is that the applicant passes the training tests successfully, if not with flying colours. Failure of the applicant to pass the training tests made him vulnerable for removal from service by the respondents, but the respondents instead of that accepted his services and sent him to Lucknow for further training. They should have severed the umbilical cord of the applicant from their department after he failed in the Academy examination. After he completed the training at Lucknow, he was posted at Delhi. Thus, respondents permitted the applicant to remain in service in spite of the unsuccessful result in the training. The applicant was also being paid his salary and allowances. According to the terms of the bond (Annex. I), as the applicant has not successfully completed the training, and submitted his resignation, the applicant, according to the terms of the contract, permitted himself open for the terms of his bond. By interim order, the applicant has already got the relief and his resignation was accepted. The only question now remains whether the respondents can enforce the bond amount. The applicant was a major of normal intelligence and understood the conditions of the bond very well and signed it alongwith two sureties. The applicant bound himself by this contract and hence, the remaining relief prayed for cannot be given to the applicant. Consequently, we dismiss this O.A. , but before realising the bond amount, the respondents shall pay back the amount of salary and allowances due, if any, to the applicant. There will be no order as to costs.

5. But before parting, we hasten to add the following. The execution of a bond by a trainee who was desirous of entering the service was bound to accept any terms offered to him if he was to make his future, but he proved to be an unsuccessful person during the training. It also appears that service with the Central Bureau of Investigation was not congenial to his temperament or

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health. Though the respondents have every right to enforce the bond amount, yet we express our pious hope that the respondents shall not adopt the Shylockial attitude by extracting a pound of flesh, specially when the applicant has rendered three years service to the CBI after training, though that training cannot be termed as successful training. They have also a discretion to either release the entire amount or a part of it. We are sure the respondents shall use a judicial discretion in realising the whole or a part of the bond amount. With these observations, this O.A. is finally disposed of.


(L.P. GUPTA) 6/7/92
MEMBER (A)


(RAM PAL SINGH)
VICE-CHAIRMAN (J)