

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA 1252/87

Date of decision: 6-1-93

Suresh Kumar Tyagi

...Applicant

Versus

Union of India & Others

...Respondents

CORAM :

THE HON'BLE MR. JUSTICE V.S.MALIMATH, CHAIRMAN.  
THE HON'BLE MR. S.R.ADIGE, MEMBER(A).

For the applicant

...None

For the respondents

JUDGMENT (ORAL) ...Sh.B.S.Oberoi, proxy counsel  
for Sh.D.K.Sharma, Counsel

(Hon'ble Mr. Justice V.S.Malimath, Chairman) :

The petitioner has challenged in this case his termination effected by order dated 12-3-1985 issued by the Deputy Commissioner of Police, 8th Batalian/DAP, Delhi. The petitioner has alleged that he was appointed as Constable in Delhi Police against a regular vacancy on a permanent post on 6th of September, 1982 and that he had undergone the necessary training in which he was successful. He complains about the termination effected on the ground that his termination is for misconduct without holding a regular disciplinary enquiry. The order of termination has expressly invoked sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 on the basis that the petitioner was holding the post of Constable on temporary basis. It was for the petitioner to have placed necessary material in support of his case that he was regularly appointed as Police Constable and not on temporary basis. The petitioner has not produced any material in support of his case whatsoever in this behalf.

As none appeared for the petitioner, we examined the records produced by the respondents' counsel to see if there is any material <sup>showing</sup> that the petitioner was regularly appointed. We do not find any material that the petitioner was appointed on regular basis. On the contrary, the material indicates that petitioner was appointed on temporary basis on the 6th of September, 1982. That being the position, the authorities were competent to exercise the power of termination in accordance with sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965. The Supreme Court has held that the appointing authority has the power to terminate the services of a temporary Government servant in accordance with Rule 5 (supra). If no stigma is attached by the said order, question of holding disciplinary enquiry does not arise. It is pointed out that even in the cases of misconduct by the temporary Government servant, it is for the appropriate authority to decide either to proceed to punish him by holding disciplinary enquiry or to exercise its power of termination of a temporary Government servant under the statutory provisions. In this case, the option has been exercised in favour of termination, power for which has been conferred by Rule 5 (supra). We, therefore, see no good ground to interfere in this case. This petition, therefore, fails and dismissed. No costs.

*S.R. Adige*  
(S.R. ADIGE)  
MEMBER (A)

*V.S. Malimath*  
(V.S. MALIMATH)  
CHAIRMAN

'PKK'  
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