

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. C.A. NO. 1288/87. DATE OF DECISION: 7.1.1993.

Suresh Kumar. ... Petitioner.

Versus

Union of India & Ors. ... Respondents.

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

For the Petitioner. ... None.

For the Respondents. ... Mrs Avnish Ahlawat,
Counsel.

JUDGEMENT (ORAL)

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

The petitioner has challenged in this case the impugned order dated 13.5.1986 by which his services have been terminated. The petitioner Shri Suresh Kumar was a Chowkidar in the LNJP Hospital at New Delhi. According to the petitioner's own case, he was appointed only on a temporary basis and was governed by the Central Civil Services (Temporary Service) Rules, 1965. The impugned order has also been made invoking sub-rule (1) of Rule 5 of the said rules and strictly in terms of the said provision. The terms of the order do not indicate that any misconduct of the petitioner is adverted to as forming the basis for termination. Thus, it is clear that no stigma is attached by the impugned order. The petitioner has, however, taken the stand that his termination is really punitive in character. He has adverted to the news item/press about an incident of rape that took place in the hospital and the matter being inquired to. It is the petitioner's case that suspecting that the petitioner is involved in the rape of a patient in the hospital, his services have been terminated and not because/there was no need to continue him in service. It is now well settled by the decision of the Supreme Court reported in JT 1991(Vol.I)SC 108 between State of Uttar Pradesh & Ors. vs

Shukla

Kaushal Kishore that it is open to the disciplinary authority to decide either to exercise its statutory powers for terminating the services of a temporary employee or to take disciplinary action for misconduct. If the authority decides to take action under the Temporary Service Rules to terminate the service of the petitioner, such action cannot be faulted on the ground that the authority could have as well taken disciplinary action and held an inquiry in accordance with law. The disciplinary authority having exercised its discretion in favour of/its statutory powers having regard to the facts of the case, the impugned order is not liable to be interfered with. The background of the alleged misconduct has only afforded a motive for taking action and cannot be regarded as having afforded a foundation for such action. The authority obviously came to conclusion that continuance of the petitioner having regard to the circumstances was not in public interest. That being the position, the impugned order is not liable for interference.

2. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

Arif Jafri
(S.R. ADIGE)
MEMBER (A)

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

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