

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1512
T.A. No.

1987.

DATE OF DECISION December 18, 1987.

Shri Balbir Singh Petitioner

Shri B.S. Mainee, Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondents.

Shri P.P. Khurana, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to other Benches ? *No*

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(Kaushal Kumar)
Member

18.12.1987.

K. Madhava Reddy
(K. Madhava Reddy)
Chairman

18.12.1987.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. OA 1512/1987.

December 18, 1987.

Shri Balbir Singh

Applicant.

Vs.

Union of India & Others ...

Respondents.

CORAM:

Hon'ble Mr. Justice K.Madhava Reddy, Chairman.

Hon'ble Mr. Kaushal Kumar, Member.

For the applicant .. Shri B.S. Maine, counsel.

For the respondents .. Shri P.P.Khurana, counsel.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice K.Madhava Reddy, Chairman).

In this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant
calls in question the termination order dated
19.5.1987 (Annexure I) under Rule 5(1) of the
Central Civil Services (Temporary Service) Rules, 1965.
The applicant was appointed as a Driver in the
Narcotics Control Bureau w.e.f. 11.1.1987 and his
services were terminated by the impugned order dated
19.5.1987.

The contention of the applicant is that he
had served the Army in the past and left the service
of Chowkidar in Safdarjang Hospital before joining the
Narcotics Control Bureau as Driver. Before his services
were terminated, a show cause notice was issued to

[Signature]

him calling for his explanation in regard to the charge of having torn a page from the log book. He submitted his representation. But thereafter without making any further enquiry, his services were terminated. It is contended that this termination is by way of penalty.

In order to satisfy ourselves whether the services of the applicant were terminated by way of penalty or on a consideration of the suitability of the applicant for the job of a Driver, we gave notice to the respondents before admission to produce the record. Respondents have produced Confidential File No.1/15/4/87 of Narcotics Control Bureau before us.

We find that while no further action was taken on the representation of the applicant, his performance right from the date of his appointment upto the date of the order of termination was assessed. The record produced before us reveals that the applicant was not performing his job satisfactorily. There were reports of his rash driving. There was a report ^{that} of the applicant went away in the car unauthorisedly for taking his food. There was a report that he behaved and spoke in an undignified manner when he was on duty on 6.5.1987. There was a further report that one counter foil No.3794 was missing from the credit voucher issued to him for drawing petrol. Thus on review of

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the entire service rendered by him in the Narcotics Control Bureau, he was found to be unsuitable for the job and the respondents decided to terminate his services. Merely because a show cause notice was issued to the applicant and he submitted an explanation, the respondents are not precluded from assessing the suitability of the temporary employee with a view to retain or terminate his services. That is what they have done in this case.

The Supreme Court in Dr. T.C.M. Pillai Vs. The Indian Institute of Technology, Guindy, Madras(1) held:

"It is well settled that a probationer or a temporary servant can be discharged if it is found that he is not suitable for the post which he is holding. This can be done without complying with the provisions of Art.311 (2) unless the services are terminated by way of punishment. Suitability does not depend merely on the excellence or proficiency in work. There are many factors which enter into consideration for confirming a person who is on probation. A particular attitude or tendency displayed by an employee can well influence the decision of the confirming authority while judging his suitability or fitness for confirmation."

We are satisfied that this termination is not based on any charge of misconduct but is one based on an assessment of his suitability for the post.

We do not see any reason to admit this application.

The application is accordingly dismissed with no
order as to costs.



(Kaushal Kumar)
Member

18.12.1987.



(K. Madhava Reddy)
Chairman.

18.12.1987.