IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A.147/1987 Date of Order 23.7.1990

Subhash Chander ... Applicant

-Versus-

Union of India & Ors ... Respondents

Counsel Present ... Shri G. N. Oberoi for the Applicant

None for the Respondents

CORAM : HON'BLE MR. P. SRINIVASAN, MEMBER (A)
HON'BLE MR. J. P. SHARMA, MEMBER (J)

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O R D E R

(P. SRINIVASAN, ADMINISTRATIVE MEMBER)

This application has been listed for hearing today. However, when the case was called out, Shri G. N. Oberoi, learned counsel appears for the applicant but none appears for the respondents. Even though the case was called out more than once, the respondents have not appeared. In view of this we have proceeded to dispose of the application after hearing Shri G. N. Oberoi, learned counsel for the applicant.

2. The applicant who was appointed as temporary Wireman in the G. E. (East), Delhi Cantt., New Delhi on probation for two years by order dated 10.11.1984 is aggrieved by a communication dated 30.9.1985 by which his services were sought to be terminated after the usual notice period of one month.

3. Shri Oberoi submits that the termination of the services of the applicant was arbitrary and was based on a policy of 'hire and fire'. The applicant had actually worked on daily wages from 20.1.1983 to 15.11.1983 in different spells and it was only thereafter that he was offered appointment as Wireman in the office of the Garrison Engineers. Though

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the termination is purported to be in terms of rule 5(1) of the C.C.S. (Temporary Service) Rules, 1965, it constitutes illegal and unconstitutional termination of his services. Relying upon a judgment of the Supreme Court in O. P. Bhandari vs. India Tourism Development Corporation Limited and Ors. : ATR 1986 2 SC 529, Shri Oberoi complained that this was a case of unfair labour practise.

4. We have considered the submissions of learned counsel for the applicant carefully. We may first refer to the appointment order dated 10.11.1984 (Annexure R-1 to the reply of the respondents). The said order sets down the terms and conditions of appointment. We may here refer to some of those terms. Sub-para 'd' and 'e' of para 1 of the order read as follows :

> "d) The appointment will be probation for a period of two years from the date assumption of duty.
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> e) During the probation period you will be governed under CCS(CCA) Rules 1945 and will be required to :
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> i) Give sufficient notice of your intention to quit the service to enable the department to releive you.
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> ii) Have your resignation finally accepted by the competent authority before leaving the department.
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> iii) Your appointment will be liable for termination at any time on the one month notice given by either side without assigning any reason. The appointing authority however reserve the right to terminate your service forthwith before the expiry of notice of unexpired portion thereof."

5. From the above it will be evident that by 30.9.1985 when the impugned order of termination of services was issued the applicant was still on probation and under the conditions of his appointment, his services could be terminated at any time with one month's notice without assigning any reason. Moreover, under rule 5(1) of the CCS (Temporary Service) Rules, 1965, the service of a temporary government servant can be terminated with a month's notice without assigning any reason the application does not disclose that the termination of the

applicant's services was a punitive measure, nor has it been ascerted therein that the applicant's services were terminated out of malice against him. It is settled law that termination of the services of a temporary government servant simpliciter in accordance with the rules does not amount to dismissal or removal from service in terms of Article 311 of the Constitution. Shri Oberoi submitted that we should look into the record of the respondents and pierce the veil to see the real cause for the impugned order. We are not inclined to accept this suggestion which would amount a fishing expedition, since no prima facie case has been made out to show that we should do so..

6. In these circumstances, we are of the view that this application is devoid of merit and deserves to be dismissed. Accordingly, we dismiss the application leaving the parties to bear their own costs.

(J. P. Sharma)
Member (J)

(P. Srinivasan)
Member (A)