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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Regn. No. O.A. 1679/87

DATE OF DECISION: 15.1.88

Shri Laxman Parshad

...Petitioner

Versus

Union of India and others

...Respondents

For Petitioner: Mr. R.K. Kamal, Advocate

For Respondents: Mr. P.P. Khurana, Advocate

CORAM: HON'BLE MR. JUSTICE J.D. JAIN, VICE-CHAIRMAN
HON'BLE MR. BIRBAL NATH, ADMINISTRATIVE MEMBER

JUDGMENT:

(Judgment of the Bench delivered by
Mr. Justice J.D. Jain, V.C.)

The applicant, Laxman Parshad, has challenged in this O.A. the legality and validity of order dated 26th October, 1987 (Copy Annexure A-I) vide which his services as a Mazdoor in 505 Army Base Workshop E.M.E. Delhi Cantt have been terminated by Brig. Com.S.P. Nijhawan, respondent No. 2, in exercise of the powers vested in him under sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 (hereinafter referred to as "the Rules").

2. The facts in brief are that the petitioner was appointed as a Mazdoor in the aforesaid Unit of the respondents w.e.f. 1.6.87 on his submitting two simple Certificates from two character verification ~~XXXX~~ different gazetted officers as per the provisions laid down in the Govt. of India O.M. No. 7(1)61/188-S/D(Appts) dated 15th April, 1963 (Annexure R-I). Subsequently, on appointment, his attestation form for verification of character and antecedents was forwarded to Deputy Commissioner of Police, Delhi. Vide Deputy Commissioner of Police letter

it was dated 24th September, 1987 (Annexure R-2) intimated that the petitioner had been arrested by the police under FIR No.226 dated 28th August, 1985 under Sections 147/148/149/452/323 IPC, Police Station, Nazafgarh, New Delhi and the said case was pending in the court of Shri R.K. Jain, Metropolitan Magistrate, Delhi. On coming to know of this fact, the respondents terminated the services of the petitioner who was a temporary government servant under Rule 5(1) of the Rules as aforesaid. The contention of the petitioner is that the impugned order although to be appears/innocuous on the face of it, is in fact punitive in nature and his services have been terminated by way of punishment on the ground of alleged misconduct on his part.

3. The application is contested by the respondents primarily on the ground that the petitioner had furnished a false declaration as well as attestation despite a clear warning inserted in the attestation form to the effect that in case false information was furnished or there was suppression of any factual information which may come to the notice of the respondents at any time during the service, his services would be liable to terminated. Likewise, he also signed a declaration that in the event of the information furnished by him in the attestation form for verification of his character and antecedents, being found incorrect/false, his services would be terminated immediately without assigning any reason or serving notice of discharge as per terms and conditions of his service. Thus, according to them, the services of the petitioner were terminated in accordance with the conditions of service of which

the petitioner was apprised at the time of filing the declaration and the attestation forms. It is asserted that in the declaration, he had clearly stated that he had not been arrested or prosecuted or convicted in any criminal case, but the information given by him was ultimately found to be incorrect inasmuch as, he was involved and prosecuted in a criminal case mentioned above.

4. The facts of the case are absolutely identical with those in O.A.1295/87: Satbir Vs. Union of India and others, which was decided by us on 21st December, 1987. So, for detailed reasons given therein, which we need not reiterate in the instant case, we allow this application, set aside the impugned order and direct the respondents to pass a fresh order of termination of the service of the petitioner, if so advised, or any other order which they may deem fit after affording an opportunity to the petitioner to submit his explanation with regard to his alleged misconduct and hearing him, if he so desires. The petitioner shall also be entitled to all the consequential benefits by way of salary and allowances etc.

✓ 15/1/88
(Birbal Nath)
Administrative Member

J.D. Jain
(J.D. Jain)
Vice-Chairman