

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1138/87
~~TA No.~~

198

DATE OF DECISION 29.1.90

Hem Prakash

Petitioner

Shri E.X. Joseph, Counsel.

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri G. Ramaswamy, Additional
Solicitor General &

Shri P.H. Ramchandani, Sr. Counsel.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Ms. J. Anjani Dayanand, Member (A).

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

ad 31/1/90
(Amitav Banerji)
Chairman

12

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DATE OF DECISION: 29.1.90

REGN. NO. OA-1138/87

Hem Prakash Applicant.

Versus.

Union of India & Others. Respondents.

For the Applicant ... Shri E.X. Joseph,
Counsel.

For the Respondents ... Shri G. Ramaswamy,
Additional Solicitor
General.
&
Shri P.H. Ramchandani,
Sr. Counsel.

CORAM: The Hon'ble Mr. Justice Amitav Banerji, Chairman.
The Hon'ble Ms. J. Anjani Dayanand, Member (A).

J U D G E M E N T

(Judgement of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji,
Chairman.)

Shri Hem Prakash, the applicant, worked as Household Attendant in the President's Secretariat , Rashtrapati Bhavan, New Delhi. His appointment was a temporary affair inasmuch as the appointment letter indicated that his service will be co-terminus with the term of the President, Shri Zail Singh. His appointment was regularised by an order dated 17.7.1987 before the term of the then President expired, but by a subsequent order dated 29.7.1987, service of the applicant was terminated forthwith with an assurance that he would be entitled to claim a sum equivalent to the amount of his pay and allowances for a period of notice of one month. He was also directed to vacate the Government accommodation on or before 17.8.1987. The applicant thereafter approached the Tribunal under Section 19 of the Administrative Tribunals

13

Act, 1985 on 12.8.1987. The Application was admitted and notice was issued to the respondents. Meanwhile, an order was also passed for maintaining status quo in regard to the possession of the Government quarter occupied by the applicant.

Mr. E.X. Joseph, counsel appearing for the applicant urged that termination of service of the applicant was not in accordance ^{with any law} and against all norms. It was the practice in the Rashtrapati Bhavan that employees initially appointed on a co-terminus basis were subsequently appointed on a regular basis. The applicant had applied for regular appointment. He had all along worked as a Peon and for the major part of the period from 1982 as the peon of the President's Secretary. On 17.7.1987, President himself appointed him as Household Attendant on a regular basis. The term of the President expired on 25.7.1987 and the applicant's service was terminated soon thereafter. He contended that the applicant's service could not be terminated except by following the CCS(CCA) Rules and not before disciplinary proceedings had taken place. Once a person is appointed regularly, his service cannot be terminated. He referred to the Recruitment and Conditions of Service Rules in respect of the employees of the President's Secretariat excluding the staff borne on the Household Establishment of the Secretariat and the work charged Establishment of the Gardens. These were excluded apparently for enabling the appointment to be done without the restrictions and procedures imposed by the statutory rules. He contended that the President's Secretariat also includes the Household Establishment

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for other purposes apart from the recruitment. He also urged that employees of the President's Household are Government servant and the stand taken by the respondents to the contrary was untenable. The relationship between the President's Secretariat and the Household employees is that of a master and servant based on a contract. He contended that the expenditure on the Household Establishment of the Rashtrapati Bhavan is charged to the Consolidated Fund of India and this was admitted by the respondents. He further contended that the President's Secretariat, under the authority of the President, controls the appointment and service of the employees of the Household Establishment. The appointment order was issued by the Under Secretary of the President Secretariat and as such the procedure of the CCS(CCA)^{and}/CCS (Conduct) Rules is applicable. He referred to two decisions in regard to the employees of the Household Establishment, Shri Hira Lal Vs. Union of India (A.T.R. 1987 (1) 414) and Mohd. Islam Khan Vs. Military Secretary to the President of India & Ors. ((1987)2 ATC 424). In both cases the claims of the applicants were upheld by the Tribunal in terms of the Rules and Instructions governing Central Government Employees. He also contended that even those who hold part-time or tenure posts under the Government are the holders of civil post. Whether a person is appointed on co-terminus basis or regular basis but paid from the Consolidated Fund of India, whose appointing authority

is the Under Secretary to the Government of India, and whose Disciplinary Authority is the Military Secretary and the Appellate Authority is the Secretary to the President, such a person is holding a civil post.

Reference was also made to the following decisions:-

- (1) State of Assam Vs. Kanak Chandra Dutta (A.I.R. 1967 SC 884).
- (2) Ilyas Ahmed Vs. The Station Director, AIR, Hyderabad & Anr. ((1979)SLJ 592).
- (3) Raja Zutchi Vs. The Union of India through the Secretary, Ministry of Information and Broadcasting and three others ((1975)SLJ 4).
- (4) Superintendent of Post Offices V. R.R. Rajaman etc. ((1977) SLJ 532(SC))

Learned counsel also referred to the judgement of the Full Bench in Rehmat Ullah Khan & Ors. Vs. Union of India and Ors. ((1989) 2 SLJ 293) and DMS Employees' Union Vs. Union of India & Ors. (ATR (1988)1 CAT 183). In the latter case the Tribunal held that Badli workers of the Delhi Milk Scheme are members of the civil service and are covered by the Administrative Tribunals Act. Learned counsel also argued that the services of the applicant cannot be terminated at will without assigning any reason with a reasonable notice. He contended that this itself indirectly concedes that the President's Secretariat had to act reasonably and could not be considered as a private employer. Consequently, the President's Secretariat is a part of the Central Government and it has to act reasonably. The appointment of the household employees is made by the Under Secretary to the Government of India. The orders passed by the Appointing

Authority or the Disciplinary Authority or the Appellate Authority or by the employees of the Central Government and their actions are not governed by any other law except the provisions of CCS(CCA) Rules. Learned counsel also urged that the Executive Power of the Union can be exercised without statutory rules and that executive power is not confined to the execution or implementation of laws and that administrative instructions can govern administrative matters unless they violate statutory rules. In support, he cited two authorities, Rai Sahib Vs. State of Punjab ((1955)2 SCR 233) and B.N. Nagaraja Vs. State of Mysore (AIR 1966 SC 1942). Learned counsel further contended that the President has the power to regularly appoint any one of his choice to the post of Household Attendant and contention to the contrary was untenable. The appointment of an employee by the President was purely a matter of administrative decision of the President who had the competence to order the regularisation of the appointment for a Household Attendant. It was further urged that in the present case, the Under Secretary had passed an order for regular appointment in pursuance to the order made by the President himself. Therefore, it is clear that there is no incompetency or illegality of the order of appointment dated 17.7.1989. It was further argued that the applicant had served with devotion, honesty and hard work with the Secretary to the President, who was satisfied and issued a certificate to this effect. He has also referred to

17

the following decisions:-

- (1) Dhirendra Chamoli Vs. Nehru Yuvak Kendra,
(1986 (1) SCC 637).
- (2) Surender Kumar Vs. C.P.W.D. (1986(1)SCC- 639).
- (3) Daily Rated Casual Labour of the P&T Department
Vs. Union of India & Ors, (AIR 1987 SC 2342)

Further, learned counsel referred to the case of International Airport Authority of India Vs. R.D. Shetty (AIR 1979 SC 1628),

in which it was laid down that even when a citizen has no legal right, the Government must act fairly in all matters of appointment and every order and action and decision must conform to fairness. It was further contended that the President, being the highest authority in the land, should be presumed to have had weighty reasons to order that the Selection Committee has delayed its work and that it should cease to work. The Under Secretary himself does not allege malafides against the President of India. Reference was made to the case of Shri Daya Ram, Household Attendant, who was made regular without any selection process or procedure and on the President's order and the appointment order was issued by the Under Secretary and not by the Military Secretary.

He further urged that the impugned order amounted to discrimination against the applicant. In respect of the order of termination, it was urged that it was the Under Secretary, who had acted unfairly, arbitrarily and malafide. The applicant was called for interview but was denied interview. Learned counsel also referred to several other decisions, which will be referred to where necessary. Lastly, it was urged that the Tribunal

may take a pragmatic view of the matter, as the applicant had served with the President's Secretariat for 5 years. He is now 28 years of age and cannot get any Government or public employment. Moreover, he has no other source of livelihood.

On behalf of the respondents, the Additional Solicitor General urged that termination of the service of the applicant was fully justified as the President has no power to regularise the services of the employees appointed on co-terminus basis with the term of the President. Whenever such a person is regularised, it is done through a regular Selection Committee by the President's Secretariat. The President had taken unprecedented step in the present case. The President himself cancelled the Selection Committee and exercised the power of Selection Committee himself to order the appointment of the applicant. This, the President could not do. The established practice had been that all appointments to the President's ~~Estate~~ are exercised by the duly appointed officers of the President's Secretariat. This procedure was not followed in the present case. Consequently, the appointment of the applicant was void ab initio even though the appointment letter was signed by the Under Secretary. The President had not followed the existing procedures and instructions and straightway appointed the applicant. Learned counsel further contended that every President is given a power to recruit reasonable number of persons to his staff, who came with him and went away on the

19

expiry of his term as President. Their appointments even for the term of the President did not make them a regular servant. They were paid from the grant made to the President's Secretariat and the President's power was exercised by his Secretariat. In the case of the applicant, this procedure was not followed. The appointment letter dated 17.7.87 was issued at behest of the then President without following the procedure of Selection. As a matter of fact, there being no Selection Committee at that time, the appointment of the applicant was ab initio void. Learned counsel contended that normal relationship of a master - servant did exist in the case ^{of} all those appointed in the President's Secretariat on the co-terminus basis. He also urged that the rules known as President's Secretariat (Recruitment and Condition of Service) Rules 1976 were also not applicable in the case of such employees of the President's Household staff. Learned counsel elaborated that the various persons employed in the President's Secretariat could be classified into two

4

groups, one who were regularly employed and others who were on co-terminus basis. The co-terminus employees are appointed to perform jobs, which are not likely to be appointed beyond the tenure of a President, or the persons selected are such as the President may prefer to employ because of personal considerations. There is no set procedure nor guidelines to govern their recruitment, no age limit or other qualifications have been prescribed for such staff. However, for the regular employees, there is a procedure laid down and age, experience and other qualifications have been prescribed. The Household employees who are in the nature of contract employees are governed by Private Law. The fact that a month's notice is given as a matter of grace towards those who had worked for sometime does not retract from the true status of their employment and cannot confer rights on them. It was also urged that the appointment of the petitioner having been terminated with the approval of the President on 29.7.1987, that order was equally valid. He contended that the orders of appointment of the applicant on regular basis was ^{not} valid, and at best, the applicant could acquire the status of a temporary employee and his service could be terminated through an order simplicitor and as such no illegality had been committed. Reference was made to the case of Manager, Government of India Press Vs. Belliapat (AIR 1979(1)S.C.429). Learned counsel argued that ⁱⁿ two cases cited by the applicant, Hira Lal Vs. Union of India (1987(1)ATR 414) and Mohd.

Islam Khan Vs. Military Secretary to the President (1987

(2)ATC 424), the status of Household employee was not raised. It was argued that even though the Household employees are not Government servants, their cases are dealt with according to the Government rules for the sake of facility and also uniformity. This facility itself does not make them Government servants. It was further urged that the above two cases do not assist the applicant.

Secondly, it was urged that the Household staff was not like that of casual labour and consequently was also not relevant. It was reiterated that the employees in the Household establishment do not hold any civil post under the Government, nor are they "Members" of any service. Consequently Article 311(2) of the Constitution had no application. It was further urged that the President's Secretariat Rules specifically lay down that the Household Establishment is not a part of the President's Secretariat, which has its own channel of promotions. There was no parallel hierarchy in the Household Establishment, which had its own practices and procedure. It was also urged that for some lower posts in the President Secretariat, if these are to be filled by promotion, the selection can also be made from Household staff, but this by itself, does not make them Government servants. It was then urged that the appointment of the applicant ^{by} by the President before demitting office/virtually amounted to inflicting a man on his successor and, therefore, could not be regarded as bonafide. For these reasons, the order of the President

was vitiated and was void ab initio. The argument that the respondents had not acted fairly was refuted. It was also urged that the conferment of status and certain rights since he worked in the Household Staff was not correct and as such appointment on co-terminus basis was purely a domestic service and not part of the Government service. The question of grant of status of a Government servant to the applicant, consequently, did not arise.

The case of Daya Ram, who also belongs to the Household Attendant originally and later on regularised stood on different grounds altogether. His appointment was made by the Military Secretary after due selection. There was no direction that the process of selection should be suspended to accommodate him. Further, there were no orders that his appointment was 'until further orders'. However, the appointment of Daya Ram was done long before expiry of the President's term of office. The case of Daya Ram was clearly distinguishable.

It was then urged that it was not a case of punishment. There is also no question of violation ~~of Articles 14 and 16 of the Constitution~~ of Articles 14 and 16 of the Constitution. The applicant's averment that the Under Secretary acted unfairly, arbitrarily and malafide in terminating the service of the applicant was incorrect. The applicant had been called for interview but his candidature could not be examined by the Committee as the matter was sub-judice. He had not even waited for a decision on his appeal. The order of termination is an

^{by} termination order of simplicitor. Since the applicant had challenged the validity of this order, the respondents had to indicate the reasons for the termination. The mention of these reasons could not be treated as stigma. The termination order was not punitive in any manner. Since the appointment of the applicant ^{by} was not ^{by} but on regular basis was "until further orders", therefore, the termination of his service was in accordance with ^{by} the terms and conditions of his appointment. Lastly, it was urged that the persons employed in the Household Establishment are not Government servants and they do not hold any civil posts. Consequently, the Tribunal had no jurisdiction to deal with this matter. But assuming that this Hon'ble Tribunal had jurisdiction to deal with this matter, it was submitted that the appointment of the applicant was in violation of the established procedure and having regard to its timing and the manner in which it was done, it was void ab initio and was therefore validly terminated by an order simplicitor without casting any stigma on the applicant. Since his appointment was "until further orders", its termination was perfectly valid and legally in order.

It will be necessary to refer to several relevant orders passed in the case before we take up the rival contentions.

The first relevant paper to be noticed is the appointment letter of the applicant, which is Annexure 'A2' and reproduced as under:-

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PRESIDENT'S SECRETARIAT,
(Establishment Section)

No. F.13/Estt/155

Rashtrapati Bhavan,
New Delhi-110004

August 18, 1982.

OFFICE ORDER

Shri Hem Prakash is hereby appointed as Household Attendant on an initial pay of Rs.196/- per month in the scale of pay of Rs.196-3-220-EB-3-232 on the Household Establishment of this Secretariat against the existing vacancy of Household Attendant, with effect from the forenoon of 18th August, 1982.

The period of his appointment will be co-terminus with the term of the President, Shri Zail Singh.

Sd/- x x x x x
(O.F. Wadhwa)
Under Secretary (Adm.)"

This letter clearly indicates that the applicant was appointed as Household Attendant in the President's Secretariat against the existing vacancies of Household Attendant with effect from 18.8.1982. It was clearly mentioned that his appointment was co-terminus with the President, Shri Zail Singh. The next relevant paper is the office order dated 17.7.1987 by which the services of the applicant were regularised. The order is as follows:-

PRESIDENT'S SECRETARIAT
(Establishment Section)

Rashtrapati Bhavan,
New Delhi.

No.F.13/Estt/155

17th July, 1987.

OFFICE ORDER

Reference this Secretariat Office Order of even number dated the 18th August 1982.

Shri Hem Prakash holding the post of Household Attendant on co-terminus basis, is hereby appointed as Household attendant on regular basis in the Household establishment on an initial pay of Rs.810/- per month in the scale of pay of Rs.750-12-870-EB-14-940

with effect from the forenoon of 17th July, 1987, until further orders.

The date of increment of Shri Hem Prakash will remain unchanged.

Sd/- x x x x
(D. B. Bhatia)
Under Secretary (Adm & Estt)"

This letter shows that the applicant was appointed as Household Attendant on regular basis in the Household Establishment with effect from 17th July, 1987, until further orders. Thereafter, the applicant was issued a letter dated 29th July, 1987 terminating the service of the applicant, which is quoted as under:-

"PRESIDENT'S SECRETARIAT
(Establishment Section)

No.F.13/Estt/155.

Rashtrapati Bhavan,
New Delhi.

29th July, 1987.

ORDER

The services of Shri Hem Prakash, Temporary Household Attendant on the Household Establishment of the President's Secretariat are hereby terminated forthwith with directions that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice of one month at the same rates at which he was drawing them immediately before the termination of his service.

Sd/- x x x x
(D.S. Jagotra)
Under Secretary (Estt.)"

The applicant had also made an appeal against the above termination order to the Secretary & Appellate Authority, President's Secretariat, Rashtrapati Bhavan, New Delhi on 21.7.1987, but there was no response. The prayer made by the applicant was as under:-

"In the aforesaid circumstances, the applicant submits that the impugned order (Annexure 'A') may kindly be quashed and set aside and the appellant may kindly be reinstated as Household Attendant in the President's Secretariat with immediate effect."

Thereafter, yet another order was passed by the President's Secretariat on 3.8.1987 (Annexure A-6) by which the applicant was directed to vacate the Government accommodation within 15 days from the date of issue of this order. He was also directed to deposit his identity card with the concerned Section.

One more paper which is relevant is a memo issued to the applicant dated 4.8.1987 (Annexure A-7) directing him to report for an interview on 11.8.1987 at the Reception Office, Rashtrapati Bhavan, New Delhi for a employment in the Household Establishment in the President's Secretariat.

Reference may also be made to Annexure R-II to the reply of the respondents in the O.A. dated 19.6.1987 where the applicant had made a petition to the Secretary in the ~~President's~~^{at} President's Secretariat praying that he be considered for appointment against any regular vacancy in the Household Establishment of President's Secretariat.

We have carefully considered the contentions and perused the relevant citations and papers referred to above. There can be no manner of doubt that a person appointed in the Rashtrapati Bhavan as a Class IV employee can assert his

rights even though his service is co-terminus with the term of the President. He enjoys all other benefits of the service. There is no doubt that when such a person is appointed at the behest of the President of India in his Household, he is normally to function till the date of the term of the President. He cannot claim any right thereafter for being made permanent. If, in the meantime, however, he is selected or approved and appointed as regular employee in the Rashtrapati Bhavan, he would continue even after the term of the then President.

In the present case, the applicant who was appointed at the behest of the President of India Shri Zail Singh, was initially appointed as co-terminus with the term of the President Shri Zail Singh. If the order dated 17.7.1987 had not been passed by the President's Secretariat, the applicant's term would have come to an end with the term of the President Shri Zail Singh.

Office order dated 17.7.87 passed by the Under Secretary (Adm & Estt) in the President's Secretariat (Establishment Section) appointed the applicant as Household attendant on regular basis in the Household establishment on an initial pay of Rs.810/- per month in the scale of pay of Rs.750-12-870-EB-14-940 with effect from the forenoon of 17th July, 1987 until further orders. According to this letter, the applicant was regularly appointed as Household attendant in the Household establishment. This order is challenged by the respondents on the ground that this order could not have been

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28

passed but for the directions issued by the then President of India. It was contended that there was a standard procedure for selection of Household staff on regular basis. It was urged that the then President had dissolved the Selection Committee and had issued an oral direction for the appointment of the applicant on a regular basis, which have been done. A contention was raised that there was neither any Selection Committee nor was any process of selection gone through. In other words, it was contended that the President himself could not have passed the orders for regularisation of the service of the applicant. We are not able to accept this contention. The President had over-all power in respect of his Household Establishment. It was by ~~the~~ convention that the President could appoint small number of people as Household Attendant on co-terminus basis. The President could also indicate his preference for any one or some of them to be regularised in service. Such a person had to under-go a process of selection and thereafter regularised. In the present case, even assuming the then President dissolved the Selection Committee and no fresh Selection Committee had been formed, the President could exercise his powers in directing the appointment of a class IV staff on a regular basis. We do not see any mala fide or bad motive in making such an appointment.

The matter would have rested there but another Secretary of the Establishment of the President issued an order on 29.7.87 terminating the services of the applicant

29

treating him to be a temporary. A perusal of the office order dated 17.7.87 shows that the applicant was appointed as Household Attendant on regular basis. There was no mention of his being appointed on temporary basis. Consequently the order dated 29.7.87 was wrong and describing the applicant as temporary Household Attendant. Since he has been given a regular appointment of Household Attendant, his services could not be terminated in the manner it has been done by the office order dated 29.7.87.

The order dated 29.7.87 was sought to be defended on the ground that the earlier order was without jurisdiction inasmuch as the President himself could not select the applicant on regular basis and initially appointed on co-terminus basis. There is nothing in the order dated 29.7.87 indicating any such ground. It merely proceeds on the evidence that the applicant was a temporarily Household Attendant, but as seen above, the order dated 17.7.87 makes his appointment as regular one. Services of the regular employees cannot be terminated by giving a month's notice.

A contention was raised that the personal staff of the President appointed on co-terminus basis was not holding a Civil Post nor was he amenable to the rules of service of the Household employees in the Rashtrapati Bhavan. It was contended that the relationship between the President and Household Attendant was a master - servant simplicitor and the rules of service in the case of such employees, who have been appointed after regular selection, were not applicable to the former. We have no manner of doubt that

29

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a person appointed as a Household Attendant on co-terminus basis does not have any right to continue if the term of the President, by whom he had been appointed, has expired. If, in the meantime, his service has been regularised, then his service will not be terminated with the term of the President. It was continued on regular basis.

In the present case we do not see any justification for terminating the service of the applicant on the basis that he was a temporary employee. If his service was co-terminus with the President's term, then it would end on the date the President retires. The order dated 29.7.87 shows that his services were terminated forthwith i.e. with effect from 29.7.87. The President Shri Zail Singh retired on 25.7.87. The applicant continued by virtue of the order dated 17.7.87. Unless we are satisfied that the order dated 17.7.87 regularly appointing the applicant as a Household Attendant in the President's Household Establishment was void ab-initio, we are unable to conclude that the applicant's services continued on a temporary basis until 29.7.87 when he was terminated. We have looked into the relevant papers and we are not satisfied that there was any valid ground for holding that the order dated 17.7.87 was null and void or a non-est. The only reason given in the reply is that the President could not have dissolved the Selection Committee ^{nor could} and have himself passed an order for the appointment on a regular basis of the applicant. Effort was made to show that the President could not himself pass such an order. We are unable to accept this contention.

118

31

The President was competent to pass such an order in the absence of a Selection Committee. The President has given reasons in his order for cancellation of the Selection Committee. We are, therefore, not satisfied that the President had ~~either~~ no power to make an appointment. We conclude that the order dated 17.7.87 passed in accordance with the orders of the President of India was valid and conferred regularisation to the service of the applicant. In this view of the matter, the order dated 29.7.87 cannot be held to be a valid order treating the applicant to be a temporary Household Attendant, which was factually incorrect. As indicated earlier, the service of the permanent employee cannot be terminated by giving a month's notice.

We will now refer to other aspects of the matter. The entire Household staff of the President is paid out of the Consolidated Funds of India through a grant made for the expenses of the President's Estate including his Household Establishment. Even the pay and allowances etc. of a person appointed on a temporary basis as Household Attendant ~~co-terminus~~ is also paid out of the same fund. Such a person is also, therefore, entitled to such protection under the law as are applicable to Central Government servant. Service condition may be different, but nevertheless he is also a temporary Government servant for the duration he is working as a Household Attendant on co-terminus basis. Since his term or period of service is pre-determined i.e. co-terminus with the term of the President, he could not normally ask for being regularised unless he is made permanent.

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We are not impressed by the line of arguments that the appointment of a Household Attendant on co-terminus basis is outside the purview of the Tribunal since such a applicant is strictly not a Central Government employee. As seen above, he is a temporary employee in the Household Establishment of the President drawing his pay and allowances etc. through the office of the Establishment Section of the President's Household. He also enjoys the benefits of the Government service in the President's Estate. We are not satisfied that the applicant was not a Central Government servant and we are further not satisfied that he had no right to move the Tribunal. Any person who is aggrieved by an order affecting his service condition can approach the Tribunal. The applicant was a temporary hand in the President's Household. After being made permanent, his services could not be terminated by giving him a month's notice treating him to be a temporary hand and he could, therefore, certainly apply to the Tribunal for redressal of his grievance.

We are not satisfied that those who hold a temporary post of Household Attendant on co-terminus basis in the President's Household are not civil servant and are entirely outside the purview of the service conditions and are excluded from approaching this Tribunal.

We may also refer that the applicant had applied for being regularised in the service, He had been called for an interview but the interview did not proceed. He has also


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37

filed an appeal against the order of termination, which has also not been decided. The respondent had sought eviction of the applicant from the Government Accommodation in the President's Estate. That had been safeguarded by the appropriate order passed by the Tribunal.

Having considered the matter in depth, we are of the view that the order dated 29.7.87 terminating the services of the applicant treating him to be a temporary Household Attendant in the President's Household is manifestly illegal and must be set aside. We, therefore, direct that the applicant would be deemed to be in service as a regular Household Attendant from 17.7.87 and would be entitled to be paid all his monetary benefits including pay, allowances, increments etc. from the said date less whatever amount has been paid to him in this regard.

We accordingly allow the Application but leave the parties to bear their own costs.


(J. ANJANI DAYANAND)
MEMBER(A)


(AMITAV BANERJI)
CHAIRMAN

'SRD'