

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1097/90
T.A. No.

199

DATE OF DECISION 15.02.1991.

Shri Rajinder Singh Petitioner
Shri K.C. Rajput Advocate for the Petitioner(s)
Versus
Lt. Governor, Delhi Administration Respondent
and Another
Mrs. Avnish Ahlawat Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
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? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The grievance of the applicant relates to the termination of his service by the impugned order dated 30.3.1990 issued under Rule 5(1) of the CCS(Temporary Service) Rules, 1965.

2. The impugned order reads as follows:-

" Reference this office notice No.1600-1650/HAP-IV Bn. D.A.P. dated 1.3.1990 regarding termination of services of rect. Const. Bandman Rajinder Singh, No.308/PTS under rule 5(i) of CCS (Temporary Service.) Rules, 1965.

The services of rect. Const. Rajinder Singh, No.308/PTS who was served with notice on 2.3.90 under rule 5(i) of CCS(Temporary Service.) Rules, 1965, shall stand terminated w.e.f. 1.4.90 after the expiry of one month notice period.

Sd/-
(Rajesh Kumar)
Dy. Commissioner of Police
IV BN. DAP: DELHI

No.2451-2500/HAP-IV Bn.DAP, Delhi' dated
the 30.3.1990.

Copy to:-"

XXXX XXXX XXXX XXXX XXXX XXX

"12.ASIP/IV Bn. along with relevant papers for
deciding the absence period of the rect. Const".

3. The applicant has stated that he was recruited as Constable in the Delhi Armed Police in 1989. The impugned order was passed while he was undergoing the period of probation. He has stated that no charge-sheet was issued to him nor any enquiry was conducted against him in the matter of alleged absence from duty prior to the issue of the impugned order of termination of his services. The respondents have also not taken any decision on the question of alleged absence period as stated in the 12th endorsement clause of the impugned order, extracted above.

4. The respondents have stated in their counter-affidavit that the applicant was appointed as Temporary Constable, Bandman in Delhi Police with effect from 15.3.1989. He was deputed for basic training with effect from the said date. While undergoing training, he absented himself unauthorisedly for more than 70 days. From the very begining of the training, his work and conduct remained unsatisfactory. He did not take any interest in the training and did not learn band work. He was completely found unfit xxxx for Police service as he did not amend himself despite warning, extra drill,

P.T. etc.

5. We have carefully gone through the records of the case and have considered the rival contentions. The respondents have produced before us a copy of the order dated 15.3.1989 whereby the applicant was appointed as a Constable. The appointment order clearly states that it is temporary and that the services of the applicant can be terminated under the CCS(Temporary Service) Rules, 1965.

6. The CCS(Temporary Service) Rules, 1965 has been made applicable to the employees of the Delhi Police by notification No.F-10/5/79-Home(P)/Estt. dated 17.12.1980 issued by the Administrator of the Union Territory of Delhi.

7. The learned counsel of the applicant argued that the CCS(Temporary Service) Rules would not apply where there is a separate Act constituting the services and separate rules have been made thereunder. He also contended that the impugned order casts a stigma on the applicant. He relied upon the decisions of the Delhi High Court in Shri Rai Singh Vs. Union of India & Others, 1979 SLJ 101 and of the Supreme Court in Hardeep Singh Vs. State of Haryana & Others, 1983(1) SLJ(SC) 207.

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8. On going through the aforesaid judgments, we are of the opinion that they are clearly distinguishable. In Shri Rai Singh's case, the Delhi High Court had before it a case of an employee of the Border Security Force governed by the Border Security Force Act, 1968. Rules have been made under the said Act. The Delhi High Court observed that the Rules made under the said Act would apply to the employee concerned and not the CCS(Temporary Service) Rules, 1965.

9. In Hardeep Singh's case, the Supreme Court held that the impugned order of discharge of the petitioner from the Haryana Police Force under Rule 12.21 of the Punjab Police Rules, 1934, was not legally sustainable on the ground that the impugned order had the effect of casting a stigma on the service career of the petitioner. The Supreme Court reached this conclusion on a consideration of the facts and circumstances of that case.

10. In Jarnail Singh Vs. Superintendent of Police, 1983 Lab.I.C. 818, the Delhi High Court has held that the CCS(CCA) Rules apply to the members of the Delhi Police. The High Court referred to its earlier Full Bench decision in Ram Chander Sagar Vs. Delhi Administration, 1975(1) SLR 216.

11. In the instant case, the impugned order of termination is an order simpliciter. The respondents have stated in their counter-affidavit that the impugned order was passed on account of general unsuitability of the applicant for continuance in the Delhi Police which is a disciplined force. In a case where the services of a temporary Government servant are dispensed with ^Q on the ground of general unsuitability, it would not amount to a penalty or casting a stigma on the person concerned (Vide Samsher Singh Vs. State of Punjab, 1974(2) SLR 701).

12. In the light of the foregoing discussion, we uphold the validity of the impugned order dated 30.3.1990 whereby the services of the applicant were terminated. The application is devoid of any merit and it is, therefore, dismissed. There will be no order as to costs.

Duck 15/2/91
(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER

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(P.K. KARTHA)
VICE CHAIRMAN (J)