

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 196/90
T.A. No.

199

DATE OF DECISION 8.3.1991.

Shri Hari Om Gupta

~~Petitioner~~ Applicant

Shri B.B. Raval

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Union of India through the
~~Secy., Min. of Home Affairs~~
& Anr.

Respondent

Shri K.C. Mittal

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

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*

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

The applicant, who has worked as Assistant Central Intelligence Officer, Grade II in the Intelligence Bureau, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned order of termination dated 21.8.1989, whereby his services were sought to be terminated, be set aside and quashed.

2. The facts of the case in brief are as follows.

The applicant is an Engineering Graduate (AMIE) in Electronics and Communications. He was appointed to the post of Assistant Central Intelligence Officer, Grade II

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on 23.11.1987. He has worked for about 1 year and 9 months thereafter. During this period, he has undergone the basic training course conducted by the Department at Faridabad. He had also worked at the Thangu Checkpost in Gangtok as Communications Officer Incharge.

3. On 21.8.1989, the following order was passed by the respondents purporting to terminate his services:-

"ORDER

In pursuance of IB the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (temporary services) Rules, 1965, I, Bidhan Chandra Nayak, Assistant Director, SIB, Gangtok, hereby terminate forthwith the services of Shri Hari Om Gupta, ACIO-II/UT, and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice (one month) at the same rates at which he was drawing them immediately before the termination of his service, or, as the case may be, for the period by which such notice falls short of one month.

Sd/- B.C. Nayak
21.8.89
Assistant Director"

4. On enquiry, the applicant was verbally informed that he has failed to pass the transmission test in Morse during the training. He had requested the respondents to consider him for appointment in any alternative job, but they have not acceded to his request. In the meanwhile, he has also become over-age for any other Government job.

5. The respondents have stated in their counter-affidavit that the applicant did not qualify in two

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subjects during the training, namely, Morse sending and Morse reading in the final examination held in October, 1988. With a view to allowing him further Morse practice, he was posted to SIB, Gangtok, where he joined on 15.11.88. In the re-test held by the respondents in the two subjects in which the applicant had not qualified, the applicant appeared but again failed. The respondents have produced photo-copy of the result of the applicant as Annexure R-1 to the counter-affidavit, p.27 of the paper-book. He was given one more opportunity to qualify in the test held from 2.5.1989 to 6.5.1989. He again appeared and again failed in the test.

6. The respondents have stated that the termination of the services of the applicant was due to his proved unsuitability for the post.

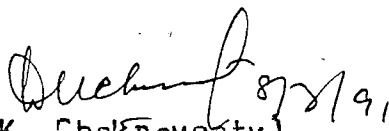
7. We have gone through the records of the case and have considered the rival contentions. The only flaw that can be pointed out in the instant case is the use of the expression "IB" in the beginning of the impugned order: "In pursuance of IB, the proviso to sub-rule(1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965....." The respondents have explained that the letters "IB" occurring at the beginning of the impugned order extracted above, were due to a


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typographical error. The respondents have produced an office order No.256/89 issued on 21.8.1989 simultaneously with the passing of the impugned order regarding sanctioning of one month's pay and allowances to the applicant. In the said office order, the rule has been correctly quoted as Rule 5, sub-rule(1) of the C.C.S.(Temporary Service) Rules, 1965 (vide Annexure R-6, p.33 of the paper-book).

8. The typographical error which has occurred in the impugned order of termination of services, will not vitiate the said order. Apart from this, even according to the offer of appointment issued to the applicant, the services of the applicant are liable to be terminated by giving one month's notice by either side. Admittedly, the applicant did not qualify himself in all the tests which were prescribed for the post. Consequently, we are of the opinion that there is no infirmity in the impugned order. The application is devoid of any merit and the same is dismissed.

The parties will bear their own costs.


(D.K. Chakravorty)
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)