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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

QA NO. 252/90

SHRI RAJENDER SINGH

SHRI VIJAY K. MEHTA

DATE OF DECISION:

APPLICANT

ADVOCATE FOR THE APPLICANT

VERSUS

UNION OF INDIA

SHRI M.L. VERMA

RESPONDENT

ADVOCATE FOR THE RESPONDENT

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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OA NO.252/90

DATE OF DECISION: 31 May, 1990

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APPLICANT

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ADVOCATE FOR THE APPLICANT

VERSUS

UNION OF INDIA

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J U D G E M E N T

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member(A))

Shri Rajender Singh, the applicant was working as a Peon on daily wage in the office of the respondent, Department of Bio-Technology, Ministry of Science and Technology from 8.6.1987. His services were terminated w.e.f. 25.7.1989 by verbal order. The applicant belongs to the Scheduled Caste and has served continuously from 8.6.1987 to 25.7.1989. The applicant has submitted that the action of the respondent in terminating his services is punitive in nature, as is apparent from the note No. F.No.BT/09/075/86 at Annexure-I, (page 10 of the paper book) from Deputy Secretary to Minister of State (Science & Technology) [MDS(S&T)]. The applicant has also claimed protection under the provisions of the Industrial Disputes Act, 1947.

He has filed this application under Section 19 of the

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Administrative Tribunal Act, 1985 aggrieved by the action of the respondent in terminating his services. He has prayed for the following reliefs:-

- (a) Termination of the applicant's services w.e.f. 25.7.1989 by an oral order should be declared as violative of Article 14, 16 and 21 of the Constitution of India and void ab-initio. He should be reinstated in service with full back wages etc.; and
- (b) He should be declared to have been regularised as a peon on account of having served continuously for over two years.

2. The respondents in their written statement have pleaded that the applicant was engaged as a daily-wage casual labourer intermittently, according to the requirement of work, for the work of purely temporary nature and not of a regular or permanent nature. He was employed to perform jobs of casual nature like shifting of furniture, carrying stationary etc. and that he was never employed against a post of regular nature. In view of the circumstances it was not considered necessary to serve any notice on him terminating his service. Regarding the note from the Deputy Secretary to PS to MOS (S & T), it has been contended that the communication at Annexure-1 of the application (page 10 of the paper book) is not an order addressed to the applicant but a factual confidential information given to the office of MOS(S&T). It is further pleaded that the document is a privileged communication. It has also been urged that the possession of the unauthorised photo copy of this confidential note violates

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the Official Secrets Act and reflects the doubtful integrity of the applicant.

3. The learned counsel for the applicant has cited the cases listed in the margin below in support of his argument that the order being of punitive nature violates the principles of natural justice and therefore deserves to be set aside. The principles enunciated in the citations relate generally to the requirement of observing principles of natural justice before passing an order terminating the services of an employee, even when the employee involved is working on a casual basis. Further casual labour employees are paid from Consolidated Fund of India and, therefore, they are employed in the service of the union, although the fact does not confer on them the status of holding a civil post. Faced with termination of service orders the casual labourers can approach the Tribunal in terms of Section 14(1)(a) of the Administrative Tribunals Act, 1985 extending jurisdiction of the Tribunal over persons holding civil post or who are in the civil service of the union.

4. The learned counsel for the respondents pleaded that since the applicant does not hold a civil post, his case is not covered by the Administrative Tribunals Act, 1985. In support of his case the learned counsel cited 1989(2)-SLJ-CAT- 282 - Data Ram Vs. UOI where the order of termination of service of a casual labourer after having worked for more than 2 years was upheld.

*1. AIR-1981-SC-136-S.L. Kapoor Vs. Jagmohan

2. ATC-1988(8)-418-K.H. Meera Sahib Vs. Subdivl. Inspector(P.O.) (Mad)

3. SLJ-1989(2)-CAT-293-Rehmat Ullah Khan Vs. UOI & Ors.

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The case is however, distinguishable as the applicant in the said matter had never worked for more than a month at a stretch. He also drew our attention to State of Assam Vs. K.C. Dutta - AIR 1967 S.C. 884 where the Hon'ble Supreme Court held that a casual labourer is not holder of a civil post.

5. We have heard the learned counsel of both the parties and considered the rival contention. The applicant had worked in the office of the Department of Bio-Technology, Ministry of Science & Technology, from 8.6.1987 to 25.7.1989 when his services were terminated by an oral order which ostensibly was termination simpliciter.. The note from the Deputy Secretary to PS to MOS(S&T), however, clearly establishes that the services of the applicant were terminated

"on the basis of complaints from his officers about his behaviour and performance".

This note is not a confidential or classified document and we are not impressed by the claim that it constitutes a privileged document. The punitive nature of the order is further fortified by the reply received by the applicant, from the Office of the Commissioner for Scheduled Caste and Scheduled Tribes vide letter No.7441/89-S.U.I. dated 31.1.1990. The termination order is therefore not termination simpliciter but an order that is punitive in nature with the attached stigma. The order orally terminating the applicant is, therefore, violative of principles of natural justice and being void ab initio is not maintainable.

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6. In the facts of the case we order and direct that the applicant should be taken back on duty at the same terms and conditions and employed on the same or similar job which he was holding before he was disengaged on 25.7.1969.

There shall be no orders as to the costs.

I.K. Rasgotra
(I.K. Rasgotra)
Member (A)

31/5/90
(T.S. Oberoi)
Member (J)