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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI

O.A.No. 639/90

New Delhi: November 25th, 1994.

HON'BLE MR.S.R.ADIGE, MEMBER (A) .

HON'BLE MRS LAKSHMI SWAMINATHAN , MEMBER (J) .

Shri Vinod Kumar,
ex- Constable No. 107/RB,
s/o Shri Chhattar Pal Singh,
r/o Vill. & PO Roura,
P.S. Jahangrabad,
Distt. Bulandshahr. (UP)Applicant.

By Advocate Shri Shankar Raju .

Versus

1. Delhi Administration
through its Chief Secretary,
Old Secretariate ,
Rajpura Road,
Delhi.
2. Commissioner of Police,
Police HQrs,
IP Estate,
New DelhiRespondents.

By Ms. Rashmi Chhabra, proxy for
Ms. A. Ahlawat, Advocate.

J U D G M E N T

By Hon'ble Mr. S.R.ADIGE , MEMBER (A)

In this application, Shri Vinod Kumar,
Ex- Constable, Delhi Police has impugned the
order dated 18.10.89 (Annexure-1) terminating
his services which have been upheld vide appellate
order dated 8.1.90 (Annexure -3).

2. The applicant was appointed as a temporary
Constable in Delhi Police on 15.1.87 and his
services were terminated by the impugned order
dated 18.10.89 under Section 5(i) CCS(Temporary
Services) Rules, 1965, The applicant alleges that

the respondents terminated his service without giving him an opportunity to explain his conduct on the allegation that he has stolen Rs.180/- from the box of his colleague on 3.10.89. The applicant alleges that he ^{has been} made scape goat of the incident due to the collusion of other police personnel.

3. The respondents, however, in their reply state that the applicant's services were terminated because during the short spell of 2 years and 9 months of service including one year spent in training, the applicant was found to be indisciplined and a habitual absentee. They contend that he was given several opportunities to mend himself but he did not improve his conduct, and consequently, on the basis of indifferent and unsatisfactory service record, and finding that there was no chance of his becoming a good police officer, his services were terminated. They have listed as many as 23 instances where the applicant was found to have absented from duties or was found to have been careless while performing his duties. Besides that they have also referred to the incident where a sum of Rs.180/- was found to have been stolen from the box of his colleague and admitted his guilt in writing (Annexure-R1). In view of these facts, the respondents state that they thought it proper not to have this type of a person in a disciplined police force as his continuation would set a bad example for others and would undermine the discipline.

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4. We have heard Shri Shankar Raju for the applicant and Ms. Rashmi Chhabra for the respondents. We have also perused the materials on record and considered this matter carefully.

5. Admittedly, the applicant was appointed as a temporary Constable. It is not denied that the CCS (Temporary Services) Rules, 1965 are applicable to the applicant, and his services were terminated under Rule 5(1) of the said rules, by the impugned order which is an order simpliciter, and which records no reason and casts no stigma on the applicant. Shri Raju for the applicant has contended that such an order is bad in law, and if the respondents desired to terminate the applicant's services, they should have conducted a formal enquiry, in which the applicant should have been given an adequate opportunity of being heard. In this connection, he has sought support from the ruling in Samsher Singh Vs. State of Punjab and another- 1974 SCC (L & S) 550 and State of Uttar Pradesh & another Vs. K.K. Shukla-1991 (1) SCC 691. We are unable to agree with Shri Raju's contention. In K.K. Shukla's case (Supra), the Hon'ble Supreme Court observed thus:-

" A temporary Government servant has no right to hold the post..Whenever, the competent authority is satisfied that the work and conduct of a temporary servant is not satisfactory or that his continuance in service is not in public interest on account of his unsuitability, misconduct or inefficiency, it may either terminate his services in accordance with the terms and conditions of the service or the relevant rules or it may decide to take punitive action against the temporary Govt. servant. If the service of a temporary Govt. servant is terminated in accordance with the terms and conditions of service, it will not visit him with any civil consequences."

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6. It is clear that the respondents found the work and conduct of the applicant to be unsatisfactory and his continuance in service was not in public interest on account of unsuitability, mis conduct and inefficiency, accordingly they terminated the applicant's services in accordance with the terms and conditions of his service by the impugned order which was an order simplicitor. Thus, the action taken by the respondents was fully in order and this ruling does not help the applicant.

7. Similarly, in Samsher Singh's case (Supra), while considering the question of termination of the services of a probationer under Rule 9 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952, their Lordships observed thus:-

"In the absence of any rules governing a probationer in this respect the authority may come to the conclusion that on account of inadequacy for the job or for any temperamental or other object not involving moral turpitude the probationer is unsuitable for the job and hence must be discharged. No punishment is involved in this. The authority may in some cases be of the view that the conduct of the probationer may result in dismissal or removal on an inquiry. But in those cases the authority may not hold an inquiry and may simply discharge the probationer with a view to giving him a chance to make good in other walks of life without a stigma."

8. There is nothing to indicate from the record that the applicant was initially appointed as a probationer, but even if we assume for the sake of argument that in accordance with Rule 5(e) (i) Delhi Police

(Appointment and Recruitment) Rules, 1980 the applicant was initially appointed as a probationer, it is clear that he had not been confirmed at the end of his period of probation, and finding the applicant unsuitable for the job, his services were terminated by the impugned order. This would be fully in consonance with the ruling in Samsher Singh's case, cited above, and this case, therefore, does not help the applicant.

9. Shri Raju has also assailed the impugned termination order, as well as the impugned order dated 8.1.90 communicating the rejection of the applicant's representation as a non-speaking order. As the impugned termination order was an order simplicitor, no reasons were required to be given in it. Similarly, no reasons were required to be communicated to the applicant rejecting his representation against the termination of his services, as the representation was not a statutory appeal.

10. In the result, the impugned orders warrant no interference, and this application is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)