

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

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O.A. No. 3077/91
T.A. No.

199

DATE OF DECISION 14.02.1992Shri Chander Prakash

Petitioner

Shri S.K. Gupta

Advocate for the Petitioner(s)

Versus

U.O.I. through the Secretary, Department of Electronics & Another RespondentShri P.H. Ramchandani, Sr. Counsel 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 Shri P.K. Kartha, Vice Chairman(J))

The short point for consideration is whether the respondents could disengage the services of a casual labourer on the ground of general unsuitability for continuance as casual labourer.

2. The facts of the case are not disputed. The applicant was engaged as a casual labourer in the office of the respondents on 27.7.1987. He fulfilled the requisite qualifications for appointment. He continuously worked upto 4.4.1989 when his

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services were terminated by verbal order without assigning any reason. The applicant has alleged that services of other persons who were junior to him have been retained and regularised by the respondents. The names of those juniors have also been mentioned in the application. The respondents have stated in their counter-affidavit that they have disengaged the services of the applicant with effect from 10.4.1989 because of his general unsuitability and work and conduct. According to them, on many occasions he did not carry out the orders given to him by the officers under whom he was working inspite of several warnings. His services were not regularised because of his unsatisfactory work and conduct.

3. We have gone through records of the case and have heard the learned counsel of both parties. The learned counsel for the applicant relied upon the decision of the Supreme Court in Dr. Mrs. Sumeti P. Shere Vs. Union of India, AIR 1989 SC 1431 and the decision of the Ahmedabad Bench of this Tribunal in Amritlal Chhaganlal, 1989(1) ATJ 135. We have duly considered these decisions.

4. Sumeti P. Shere's case related to an ad hoc Assistant Surgeon while the case of Amritlal Chhaganlal related to the termination of services of an extra departmental agent under the P&T Department. These

decisions are clearly distinguishable on the ground that while the applicants before the Supreme Court and before the Ahmedabad Bench were holders of civil posts, the applicant being a casual labourer is not the holder of any civil post. The protection of Article 311 is available to an ad hoc employee or an extra departmental agent in the P&T Department whereas the protection of Article 311 is not available to a casual labourer. A casual labourer no doubt is entitled to protection of Articles 14 and 16 of the Constitution. Normally, he has a right to complain in case his services are terminated while retaining the services of his juniors. However, the question whether a casual labourer may be continued in engagement or not would depend on his performance and conduct. The applicant has not alleged that there was any mala fides on the part of the respondents. In our opinion, the termination of services of a casual labourer on the ground of his general unsuitability can be effected without giving any show cause notice to him. In the instant case, the applicant had been told in advance that his work and performance were not upto the mark. The termination of his services without giving him a show cause notice cannot, therefore, be faulted.

5. The learned counsel for the applicant stated that in a number of cases relating to casual labourers in the Railways, etc., this Tribunal has given relief to the persons who have been terminated on the ground that they had entered service

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by producing bogus service cards. These cases are also distinguishable on the ground that the casual labourers in the Railways are entitled to the protection of the Indian Railway Establishment Manual and the Rules and Instructions issued by the Railways.

6. In the light of the above, we see no merit in the present application and the same is dismissed. The interim order passed on 23.12.1991 and continued thereafter is hereby vacated.

There will be no order as to costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY) 14/2/92
MEMBER (A)

P. K. Karta
(P.K. KARTA) 14/2/92
VICE CHAIRMAN (J)

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