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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1194 OF 2004

New Delhi, this the 14th day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, MEMBER (A)

Vijay Kumar Yadav
S/o Shri R.K. Yadav,
7C-7/222, Sector 8, Rohini,
Delhi-110 085.

(By Advocate : Shri N.R. Sharma)

....Applicant

Versus

1. Union of India
(Through : Secretary)
Ministry of Defence,
South Block,
New Delhi-110 011.

2. Directorate of Human Resources Development
(HRD)
(Through : The Director)
R & D Organisation,
'B' Wing, Sena Bhawan,
DHQ P.O.,
New Delhi-110 011.

3. Defence Institute of Psychological Research,
(Through : The Director)
R & D Organisation, Ministry of Defence,
Lucknow Road, Timarpur,
Delhi-110054.Respondents

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

The applicant was appointed as Administrative Assistant and the letter of appointment indicates the following terms and conditions:-

1. You are offered an appointment of Admin Assistant 'A' in the pay scale of Rs.3050-75-80-4590 plus such allowances admissible under the rules.

2. The appointment will be subject to the following conditions:-

- (a) The post is temporary
- (b) You will be on probation for a period of 2 years.
- (c) The appointment may be terminated at any time by a month's notice given

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by either side vis. You or the appointing authority, without assigning any reasons. The appointing authority, however, reserves the right of terminating your service forthwith before the expiry of the stipulated period of notice by making payment to you of a sum equivalent to the pay and allowance for the period of the notice of the unexpired portion thereof.

(d) In matter of discipline you will be subject to the orders made applicable to civilians paid from the Defence Service Estimates, from time to time.

(e) You will be subject to all India and field services liabilities.

(f) If you already in government/public sector undertaking/Semi-Govt etc., you are requested to provide a 'NO OBJECTION CERTIFICATE' from your employer."

2. Vide the impugned order of 25.7.2003, his services have been terminated with immediate effect.

3. Learned counsel of the applicant assails the said order by contending that while terminating the services of the applicant, a notice to show-cause should have been served and in the absence of the same, the order in question cannot be sustained.

4. In support of his claim, learned counsel of the applicant relies upon the decision of the Delhi High Court in the case of Sushma Banga Vs. Delhi Administration and Others, 2003 III AD (DELHI) 429. In the cited case, the facts indicate that Ms. Sushma Banga was having the minimum qualification and was approved for promotion. Therefore, the Court held that the said order cannot be withdrawn without giving a show-cause notice.





5. The said decision proceeds on the basis that once civil right is affected then the principles of natural justice should be adhered to.

6. In the present case in hand, there was no right to the applicant to hold the post. It is patent from the appointment letter that the services of the applicant could be terminated forthwith before the expiry of the stipulated period of notice. Thus the above said principle has no application.

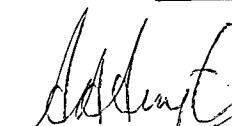
7. Reliance further is being placed on the decision of the Delhi High Court in the case of Bhagwan Shukla S/o Shri Sarabjit Shukla v. Union of India and others, JT 1994 5) S.C.C. 253. In the cited case, there was reduction of the pay of the appellant without giving an opportunity of being heard that prompted the Supreme Court to hold that the order was not valid.

8. As the facts noted above, it is not the position in the present case, as such the decision in Bhagwan Shukla's case (supra) is distinguishable.

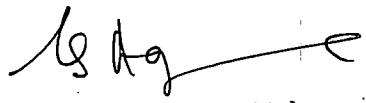
9. Keeping in view these facts, it is obvious that arguments so much thought off in the present case have little force for thrust. The order is not punitive in nature.

10. Resultantly, the present Original Application must fail and is dismissed in limine.

Issue DASTI.



(S.A. SINGH)
MEMBER (A)



(V.S. AGGARWAL)
CHAIRMAN

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