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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 93/2004

New Delhi this the 23rd day of April, 2004

**Hon'ble Shri R.K. Upadhyaya, Member (A).**

Shri Vaikant,  
S/o Shri Deep Chand,  
Assistant Field Officer,  
Aviation Research Centre,  
Dte. General of Security,  
(Cabinet Secretariat),  
R.K. Puram,  
New Delhi.

R/o Village Rangpuri P.O.,  
Mahipal Pur,  
New Delhi-37.

... Applicant.

(By Advocate Shri Pardeep Gupta)

Versus

1. Union of India,  
through Director of Accounts,  
Cabinet Secretariat,  
R.K. Puram, New Delhi,

2. Deputy Director (PL),  
Aviation Research Centre,  
Dte. General of Security,  
(Cabinet Secretariat),  
East Block-V, R.K. Puram,  
New Delhi-66.

... Respondents.

(By Advocate Shri R.N. Singh)

O R D E R

Hon'ble Shri R.K. Upadhyaya, Member (A).

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking a direction to the respondents to reinstate the applicant with full back wages and interest<sup>thereon</sup> after quashing and setting aside the orders dated 13.5.2003 (Annexure A-1) and 15.12.2003 (Annexure A-2). By order dated 13.5.2003 (Annexure A-1), the probation period of the applicant was extended by further period of six months upto 13.9.2003. The applicant was also informed by this order dated

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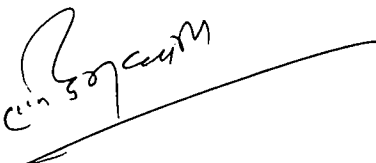
13.5.2003 that his "professional ability, regularity, punctuality, intelligency, initiative, drive, trustworthiness" were found to be unsatisfactory. The applicant was further informed that he should perform his duties satisfactorily, failing which his continued retention in Government may have to be considered afresh. By impugned order dated 15.12.2003 (Annexure A-2), the applicant's services have been terminated and it has been directed that he shall be entitled to claim a sum equivalent to his pay plus allowances for the period of one month.

2. It is stated by the applicant that he was appointed to the post of Assistant Field Officer (Plotter Draftsman) in Aviation Research Centre, Director General of Security (Cabinet Secretariat), New Delhi as per appointment letter dated 16.8.2000. The terms and conditions of appointment of the applicant are contained in this Memorandum dated 16.8.2000 (Annexure A-4) which include:

"2(i) and (ii) x x x x x x x x

(iii) The appointee will be on probation for a period of 2 years".

According to the applicant, the probation period of the applicant was for two years only and the respondents had no power to extend the period of probation. The applicant had joined his duty on 14.9.2000. On completion of period of two years on

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13.9.2002, he automatically got confirmed. Therefore, the order of extending probation period and also the order of termination of service of the applicant are against the conditions of the appointment letter. It was pointed out by the learned counsel of the applicant that the respondents have taken refuge in the Govt. of India, Ministry of Home affairs, Department of Personnel and Administrative Reforms O.M. dated 19.5.1983 (Annexure R-5) in support of their claim that the respondents have powers to extend the probation period. However, the applicant was never communicated the provisions of this O.M. dated 19.5.1983. Therefore, the same cannot be used against him.

3. The respondents have contested the claim of the applicant. In the reply filed, it has been stated that the appointment letter dated 16.8.2000 is only an offer of "a temporary post of Assistant Field Officer (Plotter Draftsman) in Aviation Research Centre, DG (S) in the pay scale of Rs.4000-100-6000 with usual allowances admissible under Rules and orders of Central Government in force from time to time". It was also mentioned in this offer of appointment that the appointment could be terminated at any time by giving one month's notice or payment of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof. The learned counsel of the respondents has stated that any offer of appointment was subject to

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the terms and conditions as well as rules applicable at the relevant time. He has stated that the O.M. dated 19.5.1983 (Annexure R-5) deals with the probation in various Central Govt. services. The applicant cannot plead ignorance. On the other hand, he was governed by these rules. Para 4 of this O.M. provides as follows:

"On the expiry of the period of probation, steps should be taken to obtain the assessment reports on the probation or and to:-

(1) Confirm the probationer/issue orders regarding satisfactory termination of probation, as the case may be, if the probation has been completed to the satisfaction of the competent authority.

(ii) Extend the period of probation (in terms of para 1 (8) of the OM dated 15.4.59) or discharge the probationer as the case may be, in accordance with the relevant rules and orders, if the probationer has not completed the period of probation satisfactorily".

4. The learned counsel of the respondents pointed out that the period of probation was earlier extended from time to time but the applicant has chosen to challenge only one such extension order dated 15.12.2003. Extension order issued on 30.1.2003 (Annexure R-2) and even the subsequent order of extension dated 13.5.2003 (Annexure R-3) have not been challenged. The learned counsel of the respondents relying on the O.M. dated 19.5.1983 stated that after the probation period as per offer of appointment was completed, the orders regarding successful completion of probation or otherwise extending it was to be passed. Accordingly, on

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completion of two years of probation period, a duly constituted Departmental Promotion Committee met on 22.11.2002 which assessed the performance of seven Assistant Field Officers, including the applicant. This DPC came to the conclusion that the applicant was not fit to clear the probation as his performance during the period was far below the mark. Therefore, the DPC recommended an extension of his probation period for a further period of six months, to give him an opportunity to improve upon his performance. Accordingly, the applicant was advised by letter dated 30.1.2003 (Annexure R-2) to make special efforts to improve his performance. According to the respondents, the applicant has been given very lenient treatment as he has been allowed ample opportunities to improve. However, since he did not improve, there was no option with the respondents but to terminate his services in terms of the provisions contained in O.M. dated 19.5.1983. According to the learned counsel, there is no infirmity in the orders of the respondents and no interference is called for on the facts of this case.

5. The arguments of both the parties have been considered and the materials available have been examined.

6. The applicant was given offer of appointment as Assistant Field Officer (Plotter Draftsman), the designation was subsequently changed to Assistant Field

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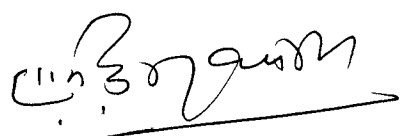
Officer (IA Support). The contention of the applicant that he automatically gets confirmed on the expiry of probation period cannot be accepted. When a period of probation is prescribed, it is expected that on the expiry of such period, the assessment of the performance of the employee has to be made. The confirmation is not automatic. It has to be followed by express order of confirmation or otherwise. Accordingly, the respondents have properly constituted a DPC on 22.11.2002 to assess the performance of the applicant during the period of probation. This has been followed by express order of the respondents extending the period of probation. As the applicant had not improved, the period was again extended from time to time and he has ultimately been discharged and terminated by order by 15.12.2003 (Annexure A-2). On the facts of this case, there is nothing to warrant any interference in the orders of the respondents as the same are in conformity with the rules on the subject. The applicant has also been ordered to be paid pay and allowances for the period of one month's notice. It is also observed that the termination is not sudden or in violation of the principles of natural justice. As a matter of fact, he has been given orders of extension of probation period as well as advice to

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improve his performance. Therefore, there is no violation of any principles of natural justice.

7. In the result, the O.A. is without any merits and the same is dismissed without any order as to costs.

  
(R. K. Upadhyaya)  
Member (A)

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