

(5)

In the Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.1754/92

Date of decision: 30.03.1993.

Shri T. Kanagasabai

...Applicant

Versus

Government of Pondicherry & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman (J)  
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the applicant

Shri Gang Ram, Counsel.

For the respondents

Shri P.K. Manohar, Counsel.

Judgement(Oral)

(Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman (J))

The Liaison Commissioner on 15.12.1989 appointed 9 persons either as Call Boys, Attendant or Assistant Cooks. The applicant was one of them and he was appointed as a Call Boy. The appointment letter issued by the ~~Postal~~ <sup>Said</sup> Officer clearly indicated that the applicant and others had been appointed on purely temporary and ad hoc basis in Group 'D' posts mentioned against each w.e.f. 15.12.1989. On 9.6.1992 in pursuance of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 the Liaison Commissioner gave a notice to the applicant informing him that his services shall stand terminated with effect from the date of expiry of a period of one month from the date on which the notice was served upon him. This notice is being impugned in the present Application.

6

2. The first submission made is that the Liaison Commissioner, the officer who issued the order on 15.12.1989 was not the appointing authority and, therefore, the order/notice issued by him on 9.6.1992 was without jurisdiction. Annexure 'B' to the reply filed on behalf of the respondents indicates that on 12.12.1989 a decision was taken by the authority concerned that the direct recruitment committee for Group 'D' post in Tourism Department had approved the proposal of appointing the certain individuals, including the applicant, on purely temporary and ad-hoc basis against the post mentioned against each. The crucial words in the communication of the Under Secretary to the Government dated 12.12.1989 are:

"Necessary order appointing them on purely temporary and on ad-hoc basis may be issued under intimation to this Department."

This communication is addressed to the Liaison Commissioner, the officer who issued the order of appointment and who issued the impugned order/notice. This document clinches the controversy. The Liaison Commissioner was required to make purely temporary and ad-hoc appointment and, thereafter intimate the department. We have no doubt that Liaison Commissioner was the competent authority to make the appointments. It follows that, unless there is some statutory rule to the contrary he should be deemed to be the appointing authority.

3. Rule 2 (a) (i) of the Central Civil Services (Classification Control and Appeal) Rules defines the 'Appointing Authority' to mean the authority empowered to make appointment to the service to which the government servant is, for the time being, a member. The rest of the rule is not relevant.

en

7

The Liaison Officer had been empowered to make appointments under the communication of Under Secretary dated 12.12.1989 aforesaid.

4. In the counter-affidavit filed it has been categorically stated that the services of the applicant had been done away with, as he had been found unsuitable. Reliance is placed by the counsel for the applicant upon the case of Kumari Shrilekha Vidyarthi and others v. State of U.P. and others, reported in 1991 (1) SCC 212. There the relevant rule which came up for interpretation provided inter alia that the Government reserves the power to terminate the appointment of any District Government Counsel at any time without assigning any cause. Their Lordships emphasised that the cause must exist somewhere even though not given or mentioned in the order of termination. To put it differently, it was laid down that the cause must be on the file. Here, the respondents have come out with the case that, since the applicant has been found unsuitable, power was exercised under Rule-5. Unsuitability, therefore, was the cause for issuing the impugned order. This case, therefore, does not advance the case of the applicant.

5. The last submission advanced is that the impugned order with the direct result of a certain incident which is referred to in the body of this Application. In the reply filed it is denied that the basis or the foundation of the order was any incident. As already indicated, it is asserted that since the applicant had been found unsuitable the impugned order had been passed.

6. No other submission has been made.

7. We find no substance in the Application. It is dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(S.K. DHAON)  
VICE-CHAIRMAN(J)

San.