

Central Administrative Tribunal
Principal Bench, New Delhi

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OA No.289/92

New Delhi this the 30th day August 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Uday Singh
R/o C/o Manoranjan, Advocate
Chamber No.,512
Western Wing
Tis Hazari Courts
Delhi- 110 054.

...Applicant.

(Through Mr Surinder Singh, advocate)

Versus

Union of India through

1. Defence Secretary
Ministry of Defence
South Block, New Delhi.

2. Quarter Master General, ST-12
Army HQs.
New Delhi-11

3. Additional Director General
Discipline & Vigilance (DV-3)
Adjutant General Branch
Army HQs.
New Delhi.

4. Commanding Officer
5033, ASC Battalion (MT)
C/O 99 APO

...Respondents.

(Through Shri M.L.Verma, advocate)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant, a civilian driver, who was working in 5033 ASC Battalion (MT) has in this application sought to have the order of his dismissal from service dated 31.1.86 declared void ab initio and for an order directing his reinstatement with full back wages. The main ground on which the applicant seeks to have the impugned order set aside is that an enquiry as provided for in the CCS(CCA) Rules was not held before the impugned order was issued. It has also been alleged that the impugned order suffers from the infirmity that it was passed without observing the principles of natural justice.

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2. The respondents in their reply statement have, inter alia, contended that this Tribunal has no jurisdiction in view of the fact that for the purpose of disciplinary proceedings, civilian MT drivers working in Defence Services have been brought under the purview of the Army Act, 1950 by Government of India, Gazette Notification No. SRO 122 of 22nd July 1950 as amended by SRO 282 of 17th August 1960. Though copies of these two gazette notifications were not appended to the reply as directed by the Bench, learned counsel for the respondents made available for our perusal copies of these gazette notifications. It is evident from the gazette notifications that the civilian MT drivers drawing pay out of the Defence Estimates have been brought under the purview of the Army Act, 1950 for the purpose of disciplinary proceedings.

3. When this fact was brought to the notice of the learned counsel for the applicant, he also agreed that in view of the situation, this Tribunal has no jurisdiction to entertain the grievance of the applicant.

4. In the light of what is stated above, the application has only to be dismissed. We, however, take notice of the fact that though the application was filed in the year 1992, reply statement was filed only on 26th April 1995 and the copies of the gazette notifications were made available for our perusal only on 14th August 1995. If this position was made clear earlier, the applicant could have resorted to his remedies before appropriate forum.

5. While dismissing the application, we make it clear that it shall be open for the applicant to approach the appropriate Forum, and we hope that in view of the circumstances of the case, the delay in doing so due to the pendency of this application may not be considered as a bar.


(R.K.Aahooja)
Member (A)

aa.


(A.V.Haridasan)
Vice Chairman (J)