

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2938 of 1992

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NEW DELHI, THIS THE 15TH DAY OF DECEMBER, 1997

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.S.P.BISWAS, MEMBER(A)

Shri Nar Singh Pal,
S/o Shri Har Prasad,
R/o C-29-A, Shashi Garden,
Mayur Vihar,
Delhi-92

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Applicant

(BY ADVOCATE SHRI N.I.N.JOHRI)

vs

1. Union of India
through the Secretary
Ministry of Communication
(Deptt.of Telecommunication)
Govt.of India, New Delhi.
2. Dy.General Manager Telecom
Agra
3. Divisional Engineer Phones (Admn.)
Telecom, Distt.Agra-282001.
4. Assistant Engineer Trunks
Department of Tele-Communication
Agra.

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Respondents

(BY ADVOCATE SHRI V.K.RAO)

ORDER

JUSTICE K.M.AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has made a prayer for quashing the impugned order of termination of service passed on 20.5.1992 by the 3rd respondent and has made further prayer for consequential reliefs of reinstatement and back-wages.

2. The applicant was a casual mazdoor in Telecom Department at Agra. He had acquired temporary status since 1.10.1989. On 20.4.1992 at about 8 p.m., he was alleged to have beaten one Mahender Singh,

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Gateman, Tax Bhavan, Agra by an iron rod and to have bitten him while he was on duty. On the basis of this incident, his services were retrenched by impugned order dated 20.5.1992 (Annexure I) with immediate effect. He was also given retrenchment compensation of Rs.6,350/- by cheque No. 13 425777 dated 19.5.1992 drawn on the State Bank of India, Agra, while serving him with the impugned retrenchment order. Being aggrieved, the applicant has filed the present OA for the said reliefs without availing of alternate remedy of appeal or revision before the competent authorities.

3. The learned counsel for the applicant argued that the applicant had acquired the status of a temporary employee and, therefore, his services could not be terminated without holding an inquiry as contemplated under Article 311(2) of the Constitution, when his services were terminated manifestly on the ground of misconduct. The learned counsel for the respondents supported the impugned order by submitting that the applicant's services could be terminated or retrenched after payment of retrenchment compensation because he was working as a casual mazdoor.

4. After perusing the record and considering the rival arguments, we are of the view that the respondents could either initiate departmental enquiry against the applicant for the alleged misconduct, or terminate his services by payment of retrenchment compensation, overlooking the misconduct alleged against him. In the present case, the retrenchment compensation was paid and it appears that the same was accepted by encashing the cheque by the

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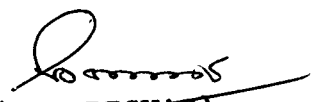
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applicant. Accordingly, he cannot now be allowed to urge that the termination was bad because there was no enquiry into the alleged misconduct against him.

5. From the allegations made in para 4 of the application, we find that a report was also lodged against the applicant with the Police in respect of the same incident and a case was registered against him for offences under Sections 324, 427 and 504 IPC. The applicant was also arrested and a chargesheet was filed against him in the court. The case was pending on the date of the application and we do not know what happened to the prosecution thereafter, but it appears that there was prima facie some material against the applicant to hold that his services were not satisfactory and to retrench his services on that basis. Accordingly for the aforesaid reasons, we find no merit in this OA and it deserves to be dismissed.

6. In the result, this OA fails and it is hereby dismissed. No costs.


(K.M. AGARWAL)
CHAIRMAN


(S.P. BISWAS)
MEMBER (A)

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