

IN THE CENTRAL ADMINISTRATION TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

9

O.A.No. 1043/92.

Date of decision 20.4.93.

Shri Pratap Singh ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM:

The Hon'ble Shri N.V. Krishnan, Vice-Chairman (A)

The Hon'ble Shri B.S. Hegde, Member (Judicial)

For the Applicant ... Shri J.P. Verghese, counsel

For the Respondents ... -

(1) Whether Reporters of local papers may be allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

J_U_D_G_E_M_E_N_T

[Delivered by Hon'ble Shri B.S. Hegde, Member (J)]

The applicant has filed this application under Section 19 of the Administrative Tribunals Act, 1985 aggrieved by the order dated 2.3.1985 by which his services were terminated. The applicant joined the respondents office as a Constable on 10.5.1982 on temporary basis and he contends that he had been performing his duties honestly and sincerely etc.

[Signature]

..

10

However, due to his illness he was advised medical rest and was taking treatment in Jai Prakash Narayan Hospital, New Delhi. In the year, 1984, he was issued a show-cause notice by the respondents with respect to the leaves that he had to take due to his illness. He contends that he submitted reply to show-cause notice. He also alleges that medical certificate to that effect. The applicant has preferred an appeal against his termination order dated 14-3-1985 and he states that having completed two years service, he should have been auto-matically regularised and made permanent in Delhi Police Service. Further, he alleges that no inquiry has been made and no charge-sheet has been framed and also was not given any opportunity. Hence, the termination order was bad which is illegal and violative of Section, 22 of the Delhi Police Act and also violates Articles 14 and 16 of the Constitution-

2. Accordingly, the applicant challenged the impugned order by saying that resorting to Section 5 of the C.C.S. (Temporary) Service, Rules is not valid in terminating his services etc. He urges that the impugned order be quashed and set aside and to reinstate him from the date of termination with all consequential benefits.

R. M. K.

...

3. The respondents, in their counter, have stated that the O.A. is time-barred and the same is liable to be dismissed because the impugned order passed as back as 2.3.1985 and the appeal filed by the applicant was rejected and the applicant was informed on 29.9.1985. Therefore, it is clear that the subject matter is time-barred and the same is liable to be dismissed on this very ground.

4. Regarding factual avernments, the respondents state that the applicant was enlisted in Delhi Police on temporary basis u.s.f. 1.5.1982 and during the short span of the service he remained absent on many times though he was given several opportunities to mend himself but all in vain. After finding no other alternatives available with the Department, in order to maintain discipline in the Force, they were left with no other alternative but to terminate his services under Rule 5 of the CCS (Temporary) Services, Rules, 1965. His representation to the Lt. Governor Delhi was also duly considered but was rejected by the Competent Authority and the same was informed to him in time. Keeping in view, his over-all performance and conduct, he was considered unfit to serve in the Police Department and accordingly his services were terminated under Rule 5 of CCS (Temporary) Rules, 1965.

2

without any penal consequences.

5. We have perused the records and heard the counsel for both the parties. The main contention of the applicant in this petition is that after completing two years of service, he should be automatically regularised. This is not based either on facts or on legal grounds. Such a contention is not acceptable to us. Secondly, the order passed by the respondents under Rule 5 of CCS (Temporary) Service Rules is not valid. The termination orders passed by the competent authority is legal and justified without attributing any motives for his termination. Hence, there is no violation of Articles 14 and 16 of the Constitution. Therefore, the provisions of Sections 21 and 22 of Delhi Police Act is not attracted. Further, Rule 5 of the CCS (Temporary) Service Rules, are made applicable to Delhi Police Force by virtue of notification dated 17.12.1980. In addition to Delhi Police Act, they have incorporated certain other service conditions/rules such as CCS (Conduct) Rules, CCS (Leave) Rules, CCS (Temporary) Service Rules in the aforesaid notification. Therefore, it is clear that there is no bar to terminate the services of the applicant under Rule 5 of CCS (Temporary

R. K. Singh

13

Rules, 1965, and the said order is termination by simplicitor, hence, he cannot question the order of termination.

6. In the termination order since no allegation has been levelled against the applicant, it is open to the competent authority to terminate the service keeping in view the exigencies of service. Besides that, as contended by the respondents, since the cause of action arose in 1985 and after completing the formalities such as representation to the competent authority etc. he has been informed of the rejection of his representation on 29.8.1985. However, the applicant has filed this application in the year 1991 which is, clearly, time-barred and is not in accordance with Section 21 of the Administrative Tribunals Act, 1985. Accordingly, we see no merit in the application and it is possible for us to dispose of this application on a short ground of limitation.

7. In view of the facts and circumstances of the case, the O.A. is disposed of on point of limitation and the same is liable to be dismissed with no order as to costs.

B.S. Hegde
Member (J)

B.S. Hegde
20/4/93.

N.V. Krishnan
20/4/87
N.V. Krishnan
Vice-Chairman (A)