

(A3/1)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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T.A. No. 1333 of 1986

(C.A. No. 47 of ¹⁹⁸⁵ 1988)

(O.A. No. 381 of 1982)

Secretary Ministry of Defence .

New Delhi Appellant.

Versus

Shri Kardam Pandey Respondent.

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Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorth, A.M.

(By Hon'ble Mr. Justice U.C.S., V.C.)

This application under order 41 rule 27 of the C.P.C. has been filed by Union of India. ~~This application has been filed by the applicant~~ for keeping the documents on record without giving any reasons as to why it has not been filed before the court of Munsif but was filed in pursuance of the direction given by the Tribunal. The document was only concerned to the medical examination to which the application was submitted. The respondents have filed a reply for the same but the learned counsel for the applicant has stated that no document in rebuttal has been filed.

2. The respondent who was a Drafts Man (IVth class Employee) in the Indian Airforce has filed a suit in the court of Munsif against his termination order. The suit

was decreed and the termination order was held to be invalid. The Union of India has filed an appeal against the same which has been transferred to this tribunal for decision. The applicant has entered into service in the Airforce on the post of Draftsman at Gorakhpur in the year 1964 but some times, thereafter, he was terminated from his service and against which he made a representation.

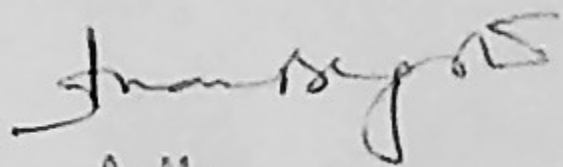
3. A notice for termination under rule 5 of C.C.S. Medical Examination Rules, 1954 was sent to the applicant on 25.6.1971 and his services were terminated by ^{CP} Captain ~~he~~ Station Commandant, Airforce station Gorakhpur but the respondent was reinstated in service vide order dated 20.12.1971 passed by the same officer. Thereafter, a Chargesheet was served on the applicant on 29.1.1973 but instead of awarding him major penalty, he was served only with a censure entry. The respondent was asked to go for medical examination initially before the Civil Surgeon, who declared him medically unfit but subsequently, it appears that the said Civil Surgeon declared him medically fit. The applicant was asked to get himself examined before the service board but he did not comply with the direction and thereafter his services were terminated vide order dated 10.12.1975. Against this order, the applicant approached to the court of Munsif. The learned munsif held that the respondents ^{se} have not been found medically fit. There was no such rule requiring him to appear before this service Board and consequently, the termination of the services of the applicant being medically unfit was not legal.

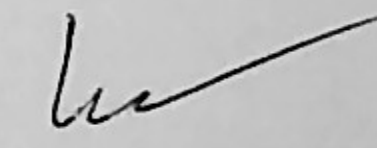
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4. Kumari Sadhna Srivastava, Addl. Standing counsel, Government of India appearing on behalf of the Central Government contended that the services of the respondents were terminated because he was found medically unfit. The learned Munsif instead of decreeing the suit outright should have directed that the respondents may be medically examined by the service Board or Government Doctor and in case he is found medically fit, then he may be provided with the job which suits on the basis of medical category to which he belongs.

5. That accordingly this application is partly also allowed and the order passed by the Munsif is liable to be rejected and it is directed that the appellant shall fix the date and the respondent shall appear on that date fixed before the Govt. Civilian Doctor and thereafter he will also be provided with the job in accordance with the category in which he may be found fit. With the above observations, the application is disposed of without any order as to costs.


A.M.


V.C.

Allahabad Dated: 17.5.91
(n.u.)