

AB
1

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
Registration T.A.No.515 of 1987

Surendra Singh Plaintiff
Versus
Union of India & Others Defendants.

Hon. Justice A. Banerji, Chairman
Hon. Ajay Johri, A.M.

(By Hon. Justice A. Banerji, Chairman)

This is a transferred application arises out of Original Suit No.1394 of 1984 which was pending in the Court of Munsif Gorakhpur. The plaintiff, whom now we will call the applicant, is one Surendra Singh. He was given the post of civilian cook on 30.4.1983 by the Deputy Zonal, R.O. (Gorkhas) at Kuraghat Gorakhpur. The applicant's case is that he discharged his duty satisfactorily and did not committed any negligence in discharging his duties and did not take away dry ration from Administrative Company and N.C.O's mess. The charge for taking away the dry ration had been made but was not proved by any witness or evidence and the charge was completely baseless, wrong and illegal. The order dated 1.8.1984 terminating the services of the applicant was de-void of reason. The applicant admitted that he was appointed by defendant No.3 on 2.5.83 for a probationary period of 2 years from the date of appointment and the said probationary period

A/S

continued. The applicant's case is that he has not been given any opportunity to contest the charge framed against him; secondly, the order has been passed on mala fide grounds, and no reason have been mentioned in the termination order; thirdly, the termination order is arbitrary. The services of the applicant was not liable to termination in law. The appointing authority was defendant No.3 and the dismissal order was passed by defendant No.2 and as such it was bad in law. Thus the applicant preferred an application for recalling the order dated 1.8.1984 but without any success hence the suit for declaration and injunction.

2. In the written statement all these charges were either denied or not admitted. It was stated that the work of the applicant was not satisfactory. A show cause notice dated 8.11.83 was issued to him for taking 1/2 Kg. tea leaves from the ration store. The applicant wrote a letter dated 10.11.83 accepting his guilt and praying to be pardoned. He also promised that he would not repeat such things in future. Thereafter another show cause notice was issued on 19.7.84 and he wrote again on 23.7.84 requesting to be pardoned again which could not be accepted in view of the overall assessment of the applicant's performance during

34

his probationary period and his services had to be terminated by an order dated 1.8.84 passed by defendant No.2. There was no illegality in the order of the applicant's appointment as temporary cook issued by defendant No.3 and his services having been terminated vide order of the defendant No.2. The letter of the applicant's appointment was issued by defendant No.3 as he was performing the duties of officiating O.C. Records and Z.R.O.(Gorkhas) in absence of defendant No.2 and any officer who holds the appointment of O.C. Records & Z.R.O.(Gorkhas) is competent to appoint civilian group 'C' & 'D' employees. The defendant No.2 was thus fully competent to terminate the applicant's service. It was then stated that the applicant's service was temporary and he was still on probation and his services were terminated. Thus he being a temporary employee, there was no question of assigning any reason or providing any opportunity of hearing him. The impugned order of termination was a pure and simple order of termination passed as per the CCS(Temp.Services) Rules, 1965 and the terms and conditions of the applicant's appointment. The termination does not amount to the punishment in the circumstances of the case. There was no question of any mala fides or illegality.

3. We have heard the learned counsel for the parties. We have also gone through the records

Qd

A-3
4

and the following reasons are given below. Originally, the applicant was appointed as a Civilian Cook. His appointment was purely temporary on probation for a period of two years. He continued as such. There was an incident of removing half a Kg. tea leaves which resulted in the termination of his service. At that time he begged to be pardoned and he was pardoned and that incident had no relationship to the termination of the service by an order dated 1.8.84. The termination of his services was on the ground of his work being unsatisfactory. He being a temporary employee and on probation, his services could be terminated at any time without assigning any reason.

4. The grounds of arbitrariness or mala fide or violation of rules of natural justice are not called for in the present case. It is well settled that a person who is on probation, his services can be terminated at any time without assigning any reason. There is nothing to show that it was a result of any particular incident during the course of his service or cause of the earlier incident of removal of tea leaves. His services having been found unsatisfactory, the competent authority i.e. defendant No.2 could always terminate it during the probationary period without assigning

ad

42/5

- 5 -

any reason. We therefore find no merit in the above arguments raised by the learned counsel for the applicant. This Transferred Application is accordingly dismissed. We will leave the parties to bear their own costs.

अजय जौहरी
A.M.

Chairman (J)

Dated the 1st of December ~~Nov.~~, 1988.

RKM