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Reserved Order

Central Administrative Tribunal, Allahabad.

Registration O.A.No.443 of 1988

Om Prakash

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Applicant

Vs.

Union of India &  
another

...

Respondents.

Hon.D.S.Misra,AM  
Hon.G.S.Sharma,JM

(By Hon.G.S.Sharma,JM)

In this application u/s.19 of the Administrative Tribunals Act XIII of 1985, the applicant has challenged the order of his termination from service communicated by letter dated 8.4.1986 as a Tailor in the Ordnance Equipment Factory Tundla. It is alleged that after passing the test, interview and medical test the applicant was appointed as Tailor on 10.9.1985 in the Ordnance Equipment Factory Hazratpur, Tundla in distt. Agra and the applicant was issued the admit card. As the General Manager of the Factory was not treating the services of the applicant regular and the applicant used to insist for the same, the applicant was removed from service illegally w.e.f. 1.3.1986 for the personal displeasure without affording any opportunity of hearing to the applicant. The applicant challenged the validity of the order of termination of his service under the Industrial Disputes Act and on being informed that the Industrial Disputes Act does not apply to the Ordnance Equipment Factory the applicant filed this application before the Tribunal on 5.4.1988 and it is alleged that the application is within time.

2. It appears from the appointment letter dated 10.9.1984, copy annexure 4, that the appointment of the applicant was only for 89 days or on probation for a period of 6 months extendable, if necessary, with a clear indication that the services of the applicant could be terminated at any time without any notice. The allegation of the applicant is that the applicant was serving as a regular employee of the Factory and his tenure of service was not for any fixed period. In support of his contention, he has filed his pay slips

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copies annexures 6 to 18 from Jan.1985 to Feb.1986 and his contention is that his services could not be terminated arbitrarily w.e.f. 1.3.1986. The pay slips filed by the applicant show that in January and April 1985, the applicant was given the wages for 26 days each, and, in May for 22 days. In Jan.1986, the applicant was paid for 27 days and in Feb.1986 for 23 days only. In the remaining months, he appears to have been paid wages for the whole month. The applicant also appears to have been paid bonus in Oct.1986 for the year 1985-86 and the difference in wages was also paid to the applicant on the enforcement of the report of the 4th Pay Commission in Feb.1986.

3. The impugned order dated 8.4.86, copy annexure 1 is the reply to the application dated 18.3.86 of the applicant stating that the applicant was appointed as Tailor on 3.12.85 purely on casual basis for a period not exceeding 89 days vide order dated 3.12.85 and accordingly, his services were terminated from 1.3.86 on the completion of the said period as there was no need of his service to the Factory and the termination was also notified in F.A.Part II No.153 dated 28.2.86. It appears from this reply that the applicant has not come to the Tribunal with clean hands and has suppressed the material facts. It appears that he was never a regular employee and lastly he was appointed on 3.12.85 for a fixed period of 89 days and on the completion of the said period his services stood automatically terminated and his allegation that he was a regular employee of the factory does not appear to be correct. It was informed to the applicant vide annexure 1 that his request for appointment could not be acceded to. The cause of action to the applicant thus arose on receiving this letter sometime in April 1986 and his application filed on 11.5.1988 is badly barred by limitation prescribed u/s.21 of the Act. The applicant cannot be allowed any advantage of the delay made by him in approaching the authorities under the Industrial Disputes Act. In this way, we neither find this application fit for adjudication nor within the prescribed period of

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limitation.

4. The application is accordingly dismissed  
at the admission stage.

*Subarwa*  
MEMBER (J)

Dated: 22nd Aug. 1988

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MEMBER (A)