

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 149 of 1992

M.L. Kushwaha .. .. Applicant

Versus

Union of India & Ors. .. .. Respondents

Sri Shyamal Narain .. Counsel for Applicant  
Km. Sadhna Srivastava .. Counsel for Respondents

Hon'ble Mr. D.K. Agrawal, Member(J)

Hon'ble Mr. K. Chayya, Member(A) .

( By Hon. Mr. D.K. Agrawal, Member(J) )

In this application the termination order dated 17.9.1991 has been challenged.

2. The facts are that the applicant was appointed as Lower Division Clerk in the Income Tax Appellate Tribunal Allahabad on purely temporary/adhoc basis w.e.f. 7.11.1990 through Employment Exchange for a period of 3 months which was later on extended. The appointment letter contains specific condition that the appointment has been made on temporary basis in a vacancy to be filled up on regular basis by the nominee of the Staff Selection Commission. The Staff Selection Commission recommended Sri Jitendra Kumar Sahu for appointment as Lower Division Clerk. Conse-

*DK Agrawal*

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quently the services of the applicant were terminated w.e.f. 17.9.1991 and Sri Jitendra Kumar Sahu made to take charge w.e.f. 18.9.1991. The termination order was passed giving one month salary in lieu of notice. The order of termination has been challenged on number of grounds invoking provisions of Industrial Dispute Act, Principles of Natural Justice and Provisions of Article 14 of the Constitution. The applicant has alleged that one Yashwant Prasad Shukla has been appointed in Patna Bench of the Tribunal on regular basis vide order dated 27.6.1991 and therefore the termination of the applicant was discriminatory.

3. The respondents have referred to the terms of appointment letter and alleged that the appointment to the post of lower division clerk cannot be made except through Staff Service Selection. The appointment of the applicant was made as a Stop Gap arrangement. As regards Yashwant Prasad Shukla it has been urged that due to inadvertent mistake Sri Shukla was appointed on regular basis vide order dated 27.6.1991 but that the order dated 27.6.1991 was modified vide order dated 3.12.1991 and he has been allowed to continue on the post on adhoc basis till the vacancy was filled up by duly selected candidate from the Staff Selection Commission.

4. We have heard the learned counsel of parties at length at the admission stage itself with a view to

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pronounce final judgment in the case. We have also seen the original papers regarding the selection of Sri Jitendra Kumar Sahu by Staff Selection Commission. Therefore the main question is as to whether the services of the applicant have been validly terminated pursuant to regular selection made through Staff Selection Commission. We may also mention at the outset that it was not obligatory for the appointing authority to give reasons in the order of termination. However reasons must exist with the authority which can be shown to the court in case of judicial review. We have already seen that the termination order was pursuant to the selection of a candidate from the Staff Selection Commission. Therefore we do not find any violation of principle of natural justice. As early as the year 1958, the Supreme Court in the case of Purushottam Lal Dingra Vs. Union of India & Ors A.I.R 1958 S.C.-36 have observed that if the Government has, by contract, express or implied or, under rules, the right to terminate the employment at any time, then such termination in the manner provided by the contract or the rules is, prima facie and per se, not a punishment and does not attract the provisions of Article 311 of the Constitution. In the instant case the appointment order itself was made subject to the condition that it will enure for a period of 3 months or till such time as the vacancy is filled up on regular basis. Therefore the matter comes to an end as soon as a candidate has been recommended for appointment by the Staff Selection Commission. The reason behind the order of termination was not anything else but the availability of a candidate duly selected by the Staff Selection

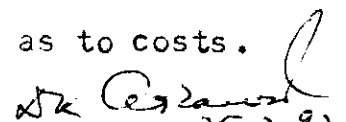
*Dr. Aggarwal*

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Commission. In this back ground no other points need to be looked into. The only requirement of law was one month's notice or pay and allowances in lieu of the same. This requirement having been completed there remains nothing to be done by the appointing authority. Therefore in our opinion the other pleas raised by the applicant do not call for an answer at all. We are of the firm view that the termination order in the instant case was neither arbitrary nor whimsical or capricious. It was in accordance with <sup>the</sup> term of employment and the rules. Therefore neither the provisions of Article 311 of the Constitution are attracted nor the principles of natural justice can be invoked. We may also refer to an observation of the Supreme Court in the Case of Union of India and Ors Vs. E.G. Namboodiri (1991) S.C.C.-38 to the effect "where order does not adversely affect any vested right or involve civil consequences, Administrative Authority is not required to record his reasons in absence of any statutory provision requiring communication of reasons". Thus the fact that the termination order did not mention the reason for termination cannot be said to be violative of principles of natural justice. In this manner we do not find any force in the present petition.

5. In the result the petition is dismissed at the admission stage itself without any order as to costs.

  
Member (A)

  
25.2.92  
Member (J)

Dated: 25th February: 1992

(UV)