

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

(1) Original Application No. 725 of 1992

J.K. Srivastava, Applicant

Versus

Union of India & Others Respondents

(2) Original Application No. 739 of 1992

Anil Kumar Applicant

Versus

Union of India & Others Respondents

(3) Original Application No. 757 of 1992

V.K. Arya Applicant

Versus

Union of India & Others Respondents

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

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

(By Hon'ble Mr. Justice U.C. Srivastava, VC)

The pleadings are complete. The cases are being heard together as identical question arise in these three cases and these are being disposed of after hearing the counsel for the parties. Shri Anand Kumar and Shri Bashisth Tiwari learned counsel for the applicants and Shri Amit Sthalkar learned counsel for the respondents. The judgement shall be placed in the three files.

2. The applicants were appointed temporarily two as helper and one as Watchman in the plan scheme of Small Industries Service Institute Industrial estate Kanpur on 21.11.1989 against the temporary post of helper and watchman. They were appointed on a probationary period of two years and the appointment letter

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provided that the probationary period can be extended or curtailed. It appears, that the applicants satisfactorily completed the probationary period, but they were allowed to continue service, Although there was no order of extension or any other order. Abruptly, their services were terminated by the impugned order under Rule 5 of Sub-Rule(1) of the Central Civil Services (Temporary Service) Rules, 1965 giving them one month notice. Feeling aggrieved they have challenged the said order contending that after expiry of probation period of two years the applicants have to be deemed to have been confirmed in the grade in which they were initially recruited and as such their services can not be terminated and further the small Industries Service Institute in which they were appointed is an industry within the meaning of Industrial Disputes Act and as such without complying with the provisions of section 25 F Industrial Disputes Act, their services can not be terminated as the same tantamounts to retrenchment within the meaning of Industrial Disputes Act. It is relevant to point out that when the Director of Surplus cell did not sponsor the name of suitable candidates even though they approached the Director S.I.S.I. (Small scale Industries Service Institute) Kanpur i.e. respondent No. 3 advertised the post and also asked the authority of Employment Exchange, Kanpur to sponsor the names of suitable candidates and consequently the authority of employment exchange, Kanpur sponsored the names of 6 persons including the names of the applicants.

2. According to the respondents the reason of

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termination is the closure of extension centres at Firozabad and Meerut with due sanction of President of India and the whole establishment common seniority list is maintained and when these two centre were closed the senior staff was redeployed to the other centres by dispensing with the services of Juniors most staff and the applicant having less than 3 years of service; their service were terminated in these circumstances. Thus, position is clear, that not for any fault or not for any reason that because of Shrinkage, in staff due to the closure of centre, the applicants' services were terminated by the employer; which was in need of their services when it made efforts to get persons from surplus cell it made advertisement and approached the employment. Though, technically, it may not be industry within the meaning of industrial dispute Act. It is not altogether separate from industry and very much interlinked with it. It may be that it is bordering the definition of industry but it can't be said to be industry as such. Accordingly, the benefit of Industrial Dispute Act may not be available to the applicant. Yet they are entitled to benefit of other provision of the said Act. Though, technically not applicable can be made available to them; when applicants were given an appointment. Obviously, they were given an appointment under the high hope the appointment will continue. They could not have apprehended that the centre shall be closed automatically their services will ^{be} terminated and they will be thrown in the decks of unemployment.

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3. It has been pointed out by the applicant that post of equivalent pay-scale are available elsewhere including the post of Daftari that respondents will give preference and priority in the matter of appointment in any post which may here in after if available in the department or in various other Small Industries Service Institutes, taking into consideration the seniority position of the applicant and for this they should not approach in the surplus cell or any other cell because on their failure to sponsor any name; these applicant were given employment without exhausting these applicants or any body who may be senior to them awaiting their turn to come and similarly no fresh appointment will be made in the department or any of its centres. In case, the applicants are prepared to accept any lower post the department shall consider them first for said posts to any body else.

4. With these observations the application of the applicants stands disposed of finally.


Member (A)


Vice-Chairman

Allahabad dated 27.7.1992.

(RKA)