

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 6th day of November, 2000

Original Application No. 779/1992

COURT :-

Hon'ble Mr. Rafiuddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Bachchan Yadava,
Assistant Instructor,
Hand Block Printing Training Centre,
Varanasi, Office of the Development Commissioner,
(Handicrafts).

(Sri N.L. Srivastava, Advocate)

• • • • • Applicant

Versus

1. Regional Director,
Centre Region, 46/3, Gokhale Vihar Marg,
Lucknow U.P., Office of the Development
Commissioner (Handicrafts).
2. The Development Commissioner (Handicrafts)
West Block No.7, R.K. Puram, New Delhi.
3. Addl. Development Commissioner (Handicrafts)
West Block No.7, R.K. Puram, New Delhi.
4. Union of India,
Through Secretary, Ministry of Textile,
Udyog Bhawan, New Delhi.

(Sri Amit Sthalekar, Advocate)

• • • Respondents

O R D E R (O_r_a_1)

By Hon'ble Mr. Rafiuddin, J.M.

The applicant Sri Bachchan Yadava, who was appointed
as Assistant Instructor in the Office of Development
Commissioner (Handicrafts), Varanasi vide order dated
26-2-1992 by the Regional Director (CR), Development
Commissioner (Handicraft), Lucknow, has sought quash
of the order dated 20-5-1992 issued by the same authority.

whereby his service has been terminated.

2. Briefly stated the facts of the case are that the applicant alongwith three other persons, namely, Km. Madhuri Gupta, Sri Arvind Kumar and Shri Kamrul Hasan were appointed on the post of Assistant Instructor in the Office Deputy Commissioner(Handicrafts). However, the services of the applicant and two others have been terminated vide the impugned order dated 20-5-1992, which is reproduced as under :-

"In reference to this office Memorandum No. DC(H)/ CR/2(3)/92-5024, 25, 27 all dated 24th February, 1992, one month notice is hereby served to Km. Madhuri Gupta, and S/Shri Bacchan Yadav and Arvind Kumar the Assistant Instructors posted at Hand Block printing Training Centre(s) at Chinhut, Varanasi and Amroha respectively that their services stand terminated after one month to be counted from the date of issue of this notice to them.

All may acknowledge the receipt.

To Km. Madhuri Gupta, Asst. Instructor,
O/o Development Commissioner(Handicrafts),
HBPTC, Chinhut, Lucknow.

Sh. Bacchan Yadav, Asst. Instructor,
O/o Development Commissioner(Handicrafts),
HBPTC, Varanasi.

Sh. Arvind Kumar, Asst. Instructor,
O/o Development Commissioner(Handicrafts),
HBPTC, Amroha."

3. The applicant has challenged the impugned order, mainly on the ground that the impugned order dated 20-5-1992 has not been passed by the appointing authority on applying his own mind and the same has been passed on the instructions of the higher authorities, namely, Addl. Development Commissioner, New Delhi (respondent no.3). The applicant has also not been given any opportunity of hearing before passing of the impugned order. Therefore, the impugned order is arbitrary and illegal.

4. We have heard counsel for both the parties and perused the record carefully.

5. Learned counsel for the respondents has argued that on the basis of the pleadings in the counter

affidavit that since the appointment of the applicant was made inadvertently in excess of the sanctioned strength, the post cannot be extended for indefinite period. As regards the instructions from the higher authorities, it is stated that it was simply a matter of exchange of information or matter of discussion between the two administrative units out of which one has final authority of decision. Therefore, this aspect has no relevance to the case of the applicant. The position regarding staff pattern^{of} of routine information which is sought on all India basis by the Headquarters Office in order to ascertain the sanctioned strength of staff. As regards show cause notice, since it was specifically mentioned in the appointment letter that the services of the applicant would be terminated at any time without notice or without any reason assigned and it was duly accepted by the applicant in writing, the question of opportunity of hearing to the applicant does not arise and as such the impugned order has not been passed in violation of the principles of natural justice.

6. Learned counsel for the applicant has brought to our notice the view expressed by the Division Bench of this Tribunal in OA No.137 of 1993 decided on 6-9-2000 comprising Hon'ble Mr. R.R.K. Trived, V.C. and Hon'ble Mr. M.P. Singh, Member (A) in which the impugned order was challenged by Sri Arvind Kumar and Km. Madhuri Gupta. The Division Bench of the Tribunal has taken the view that ~~since~~ another candidate, namely, Shri K. Hasan, who was also selected and appointed and whose services were also terminated by the order dated 20-5-1992 and OA No.751/92 filed by the said K. Hasan was allowed by the Division Bench this Tribunal in which the full controversy was examined and his reinstatement was directed *vide* order

dated 9-2-1993 in OA No.751/92. The aforesaid order was also considered by the Apex Court and was confirmed. ^{Impugned order} Therefore, had been quashed. Since the applicant is also appointed by the same order and his services have been terminated by the same order, therefore, we do not find it necessary to take a different view as taken by the Division Bench of this Tribunal as mentioned above. The OA deserves to be allowed. The impugned order dated 20-5-1992 (Annexure-4 to the OA) is quashed. The applicant shall be entitled to be reinstated on the post of Assistant Instructor with all consequential benefits. There shall be no order as to costs.

S C *Rajiv Mehta*
Member (A) Member (J)

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