

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 6th day of May, 1996

Original Application No.1279 of 1992

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.
Hon'ble Mr. T.L. Verma, J.M.

Pooran Chandra alias Pooranchand son of
Shri Mathura Bhatt, previously working as
Watchman under S.I.S.I., Haldwani,
Resident of Village Gujaura,
Post-Fatehpur, District-Nainital.

(By Sri Anand Kumar, Advocate)

..... Applicant

Versus

1. Union of India
through Secretary Ministry of Industry,
Udyog Bhawan, New Delhi.

2. Development Commissioner (SSI),
Nirman Bhawan,
7th Floor,
New Delhi.

3. Director S.I.S.I.,
107, Industrial Estate, Kalpi Road,
Kanpur.

(By Sri Amit Sthalekar, Advocate)

..... Respondents

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ORDER (Oral)

By Hon'ble Mr. S. Das Gupta, A.M.

This OA was filed under Section 19 of the Administrative Tribunals Act, 1995, challenging the order dated 1-5-1992, by which the services of the applicant were terminated on the expiry of the period of one month from the date of notice. He sought quashing of the aforesaid order with all consequential benefits including seniority and back wages.

2. The facts stated by the applicant are that he was initially appointed on casual basis on the post of Peon/Chowkidar in the year 1985. He worked upto 21-8-1989 with ~~with~~ breaks. Thereafter when the post of watchman/ chowkidar fell vacant, the applicant alongwith others was sponsored by the Employment Exchange for the said post. He was called and thereafter appointed on the post of chowkidar by appointment letter dated 21-8-1989. The appointment was purely on adhoc basis and the applicant was put on probation for two years. After completion of two years the probation period of the applicant was not extended and, therefore, the applicant claimed that he would be deemed to have been confirmed on the post. Yet by the impugned order dated 5-2-1992, the respondents gave the applicant one month's notice for termination of his services under Rule 5 of CCS (TS) Rules. Hence, this application.

3. The applicant has stated that he discharged his duties ~~in~~ entire satisfaction of his superiors and that the termination of the applicant had not been done on the ground of unsuitability or for any similar reason and, therefore, the order of termination is bad in law. He has also contended that the order of termination of the services is in violation of Articles 14 and 16 of the

Constitution of India, as persons who have rendered less service than the applicant have been retained in service.

4. The respondents have filed a counter affidavit in which it has been stated that the service of the applicant has been terminated due to closure of extension centre at Ferozabad and Meerut with the sanction of the President of India. It is further stated that in the whole of U.P. a common seniority list is maintained and the senior persons were re-employed in the other centres by dispensing with the services of the junior most staff. In the said seniority list the applicant's position was at serial No.17 and it appears that he is the juniormost as the person at serial No.18 had already been discharged. Thus, the applicant being the juniormost and having less than three years of service, his services have rightly been terminated under Rule 5(1) of the OCS(TS) Rules.

5. The applicant has filed a rejoinder affidavit in which he has reiterated his contention in the OA but the contention of the respondents that his services were terminated as a result of closure of the extension centres and as the applicant was the juniormost amongst the surplus personnel, has not been effectively rebutted.

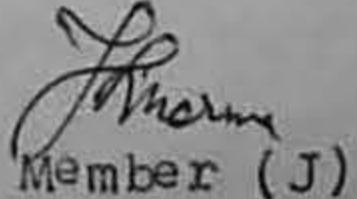
6. When the case was called out, non-appeared for the applicant. We heard the learned counsel for the respondents who took us over the pleadings.

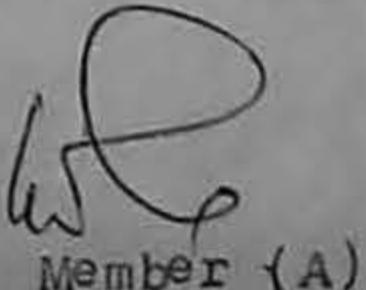
7. The letter of appointment of the applicant indicates very clearly that the same was on temporary basis and that the applicant would be on probation for two years. Admittedly, the period of two years had expired and there was no specific orders extending the probation period. It is, however, settled law that a person who is appointed on temporary basis on probation basis does not get confirmation by mere efflux of time. There has to be a specific order confirming the employee on the post. The respondents have

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specifically stated in the counter affidavit that although a period of two years has expired, the applicant was not substantively appointed on the post. In absence of any specific order confirming the applicant on the post, he would not have been deemed to have been confirmed. This proposition of law was propounded by the apex court in the case of M.P. Hasta Slip Vikas Sangathan Vs. Devendra Kumain Jain, (1995 29 ATC 159, S.C. As the applicant continued to be on probation in terms of the conditions of service laid down in the appointment letter as well as in terms of Rule 5 of OCS (TS) Rules, his service could be terminated by a simpliciter order unless such an order was in any manner stigmatic. It is clear from the averments in the counter affidavit that the services of the applicant have not been terminated for any misconduct but on account of surplusage as a result of collossure of certain units. The applicant has not effectively rebutted the contention that being the juniormost person, he could not be re-deployed. The termination of the services of the applicant is, therefore, simpliciter discharge and since, he has been given a month's notice, the requirements of rules have been complied with. We find no reason to interfere in the same.

8. In view of the foregoing, the application lacks merit and is dismissed accordingly. The parties shall, however, bear their own costs.


Member (J)


Member (A)

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