

CP/32190

(48)

136

CAT/3/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~NXXWXXDXEXHI~~

O.A. No.  
~~Ex No~~

110

1987

DATE OF DECISION 19.4.1990

Khumansingh Pretapsingh Parmar Petitioner

Mr. R.R. Tripathy Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. J.D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R. Dharmadan .. .. Judicial Member

The Hon'ble Mr. M.L. Singh .. .. Administrative Member

C.A. No. 110 of 1987

Khumansingh Pratapsingh Parmar,  
13, Sangam Society,  
Harni Road,  
BARODA.

.. Applicant

(Advocate-Mr. R.R. Tripathy)

Versus

1. Union of India,  
Through,  
The Secretary,  
Ministry of Human Resources  
Development, Dept. of Culture,  
Govt. of India,  
New Delhi.

2. The Director General,  
Archaeological Survey of India,  
Janpath,  
New Delhi.

3. The Superintending Archeologist,  
A.S.I. Excavation,  
Branch - V,  
13, Sangam Society,  
Harni Road,  
VADODARA.

.. Respondents

(Advocate-Mr. J.D. Ajmera)

COMAM : Hon'ble Mr. N. Dharmadan .. Judicial Member

Hon'ble Mr. M.M. Singh .. Administrative Member

O R D E R

Date : 19.4.1990.

Per : Hon'ble Mr. N. Dharmadan .. Judicial Member

The applicant who has been appointed by the  
~~respondent~~<sup>4</sup> as Attendant under the respondent as per  
order No. 18/84, dt. 17.4.1984 by the 3rd respondent,  
approached this Tribunal for quashing termination  
order No. 7-2-86-Amd-Con, dt. 2.12.1986 as illegal,  
null and void.

2. The facts are that the third respondent appointed

the applicant as Attendant and he was working in the office to the complete satisfaction of the respondents. But, however, when the third respondent was not in station an incident took place which was reported to the police and according to the applicant, the termination order has been passed by the third respondent as a consequence of the incident. It is under this background that <sup>the</sup> ~~it is not~~ termination simplicitor as <sup>order impugned in this case - this order passed</sup> contemplated under Rule 5 of C.C.S. (Temporary Service) Rules, 1965.

3. We have perused the records and the impugned order. Though the impugned order was passed in exercise of powers under Rule 5 of the aforesaid Rules, the statements given by the respondents in the Counter Affidavit are to the effect that the termination was effected because the third respondent found the applicant to be an unsuitable person for retaining in service. In this connection, the statements in the Counter Affidavit are relevant and reproduced below:

"The applicant was found unsuitable to be retained in Government service and, therefore, his services were terminated as simplicitor, in accordance with the rules and terms and conditions of his appointment. It may be stated that in one case, the applicant had threatened the stenographer that he will get him beaten by his friends in the local police department. In another case, his fellow attendant stated that the applicant was instrumental in getting him harassed by the Local Police Officers in connivance with the applicant.

\* \* \* \* \*

It may be stated that the respondent was out of station when the incident took place. On his return the matter was brought before him, with a view to finding out the truth Mr. B.R. Meena

of the rank of Deputy Superintending Archeologist gazetted class A office of the Govt. of India was asked to hold preliminary inquiry in that behalf. From the reports, submitted by the said officer, it was found that the applicant was unsuitable to be retained in the Govt. service. It is submitted that the impugned order is not passed with a view to punishing the applicant. The impugned order is not passed by way of penalty, but it is simplicitor termination order. It may further be stated that the respondent No. 3 personally verified certain facts of the case and after satisfying that the applicant is not a fit person to be retained in Govt. service, his services were terminated as simplicitor."

From the above statement we are fully satisfied <sup>not</sup> that this is <sup>as concluded by the majority</sup> a fit case of simple termination in the exigency of service, <sup>^</sup> hence we find ourselves unable to uphold the impugned order in this case.

4. The third respondent should have issued notice to the applicant and taken appropriate steps for termination after hearing the applicant. Since the third respondent has not chosen to adopt any <sup>such</sup> procedure, we are of the view that there is violation of principles of natural justice and termination is unsustainable.

Under these circumstances, the only course open to us is to allow this application and direct to reinstatement of the applicant with all consequential benefits. No order as to costs.

Sd/-  
( M. M. Singh )  
Administrative Member

Sd/-  
( N Dharmadan )  
Judicial Member