

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~Terminal~~ X
NEW DELHI
AHMEDABAD/ BENCH

O.A. No. 247 OF 1988
 XXXXXXXXX

DATE OF DECISION 22-03-1991

Mr. Umakant Kantilal Modi, Petitioner

Shri S.H.Asrani, Advocate for the Petitioner(s)

Versus

Union of India and others. Respondent

Shri B.M.Raval, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H.Trivedi : Vice Chairman

The Hon'ble Mr. S.Santhana Krishnan : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

1. Mr.Umakant Kantilal Modi,
1/3786, Soni Falia,
Moti Desai Pole,
Surat. Notice to be
served through, Shri S.H.Asrani,
Advocate, 6/2, Pallavi Apts.,
Opp.Fire Station, Navrangpura,
Ahmedabad.

...Applicant.

Versus

1. Union of India, through
The Director General,
Central P.W.D.,
Ministry of Urban Development,
Nirman Bhavan,
New Delhi.
2. Executive Engineer, (Electrical),
Central Electrical Division,
Central P.W.D., Outside Shahpur Darwaja,
Jawahar Saw Mill, Bldg., Shahpur,
Ahmedabad.
3. Asstt. Engineer (Electrical),
Central Electrical Division No.3,
P.W.D. Dak-bungalow, Fatehganj,
Baroda.
4. Jr.Engineer,
C.P.W.D., (Electrical),
Central Excise Bldg.,
Athwa Lines,
Surat.

...Respondents.

Coram : Hon'ble Mr.P.H.Trivedi , Vice Chairman
Hon'ble Mr.S.Santhana Krishnan: Judicial Member

ORAL - ORDER

Date : 22/03/1991

Per : Hon'ble Mr.P.H.Trivedi : Vice Chairman

In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner has impugned the order dated 2.4.1988, by which his services have been terminated. The petitioner was admittedly relieved and has been a casual worker in the establishment of the respondents. He challenges the impugned order both on the ground of violation of natural justice as well as by the protection afforded by paras 20.03, 20.04, and 21.01, of the

Manual (Volume III) for work charge establishment in the DG working CPWD. The procedure prescribed therein has not been followed. The said Rules are reproduced for convenience as follows and the Rules requiring that the entire procedure in CCS(CCA) Rules, 1965, has to be followed in initiating to proceedings and when a person is discharged by the principle of short service the Rule of last man in and first man out has also to be followed. He further contends that the perusal of the impugned order establishes a clear nexus between the punitive nature of it. The punishments awarded by virtue of the impugned order can not be defended in any way by basis described as an order simpliciter. Learned advocate for the respondents Mr.M.R.Raval, for Mr.P.M.Raval has valiently attempted to defend the position of the respondents. He states that the departmental inquiry was made only to establish whether the respondents had in fact assaulted Shri Balkrishna, on 4.3.1988, and there was no departmental inquiry for the order of punishment of the petitioner. The order for the said termination is therefore order simplicitor. Referring to the reply to Page-3, he further states that the *prima facie* inquiry was necessary only to arrive to the satisfaction of the concerned officer that the petitioner is not fit to be continued in service. The petitioner is a casual worker and is not governed by CCS (CCA) Rules. Further his services can be terminated with notice and no inquiry is required under Rule 14, of the Disciplinary Rules applicable to him.

2. On perusal of a record and on the Rules of the Manual referred to, we find that the respondent's case had no merit. The very wording of the impugned order shows that termination is based upon a physical assault committed, which has been established as a result of the departmental inquiry. It is not indispute that the report of the inquiry officer or memorandum of charges or imputation

have not been given to the petitioner. Whether, therefore, CCS (CCA) Rules, are applied or not, the requirement of natural justice in so far as confronting the petitioner with facts of the charge and giving ~~him~~ adequate opportunity to explain in his representation is not been satisfied. Learned advocate for the petitioner has cited the case of AIR 1963 SC 1914, P.B.Gajendra gadkar, to show the requirements of natural justice which have to be satisfied in all such cases. It is not necessary to go into it for the establishment of the case, because averments in the case makes it manifest. It may however, be added that even for casual workers the instructions in the Manual clearly require that CCS (CCA) Rules, have been made applicable if any punishment is needed to be given the procedure in these. Rules is required to be followed. In the circumstances of this case, whether casual workers are governed by CCS (CCA) Rules, or not, or whether the petitioner is treated as an out sider. It is necessary for the petitioner to be given an opportunity to be confronted with ~~which~~ the charges for ~~he~~ has to be heard. This responsibiliig whether in the form of CCS (CCA) Rules, or otherwise has not been met and therefore, the petitioner must be held to deserve relief.

Am

3. Accordingly we find the petition has merit and allow the relief claimed by the petitioner of quashing and setting aside the impugned order of termination dated 2.4.1988. The petitioner be reinitiate in service from which he was terminated and his back wages be paid with consequented relief.

No order as to costs.

4. Respondents are given three months time to implement the directions.

5. The petitioners will be entitled to pay the interest at the rate of 12% after the period allowed in implementing the above directions in case of ~~any~~ further delay.


(S. Santhana Krishnan)
Judicial Member


(P.H. Trivedi)
Vice Chairman