

NO
Termination

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

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(S)

O.A. No. 85/91

~~E.A. No.~~

DATE OF DECISION 15.09.1992.

Shri Bakul Dinkarraai Tank Petitioner

Mr. A.T. Takhlani Advocate for the Petitioner(s)

Versus

The Union of India & others Respondent

Mr. Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan
Vice Chairman

The Hon'ble Mr. R.C. Bhatt.
Member (J)

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 ? >

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Shri Bakul Dinkarraai Tank,
Hindu aged about 26 years, occupation service.
Residing at Ramkuva Sheri,
Near Verai Matani Bari,
Jamnagar-361 001.Applicant

(Advocate : Mr. A.T.Takhlani)

Versus

1. The Union of India,
(Ministry of Transports)
Summons Notice through,
Shri P.M.Rawal.
2. The Director,
Department of
Light Houses and Light Ships,
"Deep Bhavan"
Pandit Nehru Marg,
Jamnagar.
Gujarat State,
Jamnagar-361 008Opponent

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A.85/91

Date : 15.09.1992.

Per : Hon'ble Mr. N.V.Krishnan.
Vice Chairman

The applicant was working as a
lower division clerk and later on, as a
Hindi typist in the ^{the office of the} Director, Department of
Light Houses and Light Ships, Jamnagar, the
respondent-2 .He is aggrieved by the
termination of his services by the impugned
order dated 26/2/91.

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2. The brief facts of the case are as follows. :-

(2.1) The applicant was first appointed as ad-hoc L.D.C. from 18/10/88 to 31/12/88 by the order as s.No. 1 (The applicant has not numbered the Annexure, which are, therefore, being identified by the serial numbered given in the index of documents.) Thereafter, he was appointed ^{u for} short periods of about 3 months at a time with a break of a few days at the end of each appointment.

(2.2) The applicant was last appointed on 1/1/91 (s.No. 11) and the appointment was to last till 27/3/91 or till the candidate selected by the Staff Selection Commission joined duties or until further orders, whichever was earlier.

(2.3.) Subsequently, on 14/2/91 another order was passed (s.No. 12) in continuation of the order at s.No. 11 appointing the applicant to the post of Hindi typist on ad-hoc and purely temporary basis e till 27/3/91 or, till the nominee of Staff Selection Commission joined duty, whichever was earlier. The

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condition stipulated in s.No. 11 that the applicant's appointment would last until further orders, was not repeated in s.No.12.

(2.4) The applicant's services have been terminated by the office order dated 26/2/91 with the effect from the same day. A copy of the order is produced by the respondents as Annexure-1-A.

(2.5) The applicant contends that after nearly 3 years of service, his services cannot be terminated in this manner. He has prayed that the impugned order dated 26/2/91 be quashed, and ^{he} he reinstated in service.

3. The respondents, have filed a reply opposing this claim. It is pointed out that the appointment was purely on an ad-hoc basis and it does not give any right to the post was to expire at the end of February 1991, and as the sanction for its continuation was not received, the applicant's service was terminated from 26/2/91. The candidate selected by the Staff Selection Commission, namely, Satish Ranglal, a S.C. candidate, has now been appointed to the post of L.D.C. This candidate joined on 11th May, 1992. It is, therefore, submitted, that this application has no merit.

4. We have perused the records and heard the learned counsel for the parties.

5. The learned counsel for the applicant contends that there was no excuse for terminating his services as even now there are vacant posts of L.D.C.

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6. The learned counsel for the respondents states that, in any case, the applicant's services would have come to an end on 27/3/91, in accordance with the s.No 11 order. Therefore, if at all the applicant is entitled to, any relief it is only for service upto 27/3/91.

7. Undoubtedly, the termination of service on 26th February, 1991, is premature, because the appointment was, to continue till 27/3/91 as the candidate selected by the Staff Selection Commission joined only on 11th May, 1992. The plea that the services was terminated on 26/2/91 because sanction for continuation of the post beyond 28/2/92 had not been received does not appear to be valid because, in that case, the termination ^{has been} have been, made effective from the afternoon on 28/2/91. However, we are satisfied that there was no malafide in the termination of the applicant's services.

8. In this connection we cannot forget that the post rendered vacant by the termination of the applicant has been filled by a candidate selected by the Staff Selection Commission and this candidate has joined duties on 11/5/92. It is also pertinent to note that though the applicant also appeared ⁱⁿ the Staff Selection Commission Examination, he has not got any order in his favour.

9. The applicant has no case that after his service was terminated, any fresh person has been appointed on an ad-hoc basis as L.D.C. or Hindi typist or that any person

who has a less ad-hoc services than he, has been continued in service after his termination.

The respondents are entitled to replace ad hoc employees on a 1:1 basis by candidates, selected by the Staff Selection Commission for regular appointment. In the present case, the services of the applicant was terminated even before the regularly selected candidate joined. That is the weakness of the impugned order. In normal circumstances, the services of the applicant would have been continued till that date and this alone is a factor which weighs ^{with} us in moulding the relief.


10. Before we conclude we have to take note of the decisions cited before us. The learned counsel for the applicant has filed a list of the authorities the particulars of which are mentioned below :


(2) AIR - 1972 S.C. Page - 1489, (2) AIR - 1985 S.C. Page - 722, Para - 4-5, (3) 21 (2) G.L.R. Page - 202 - Para - 17, (4) 1980 G.L.R. Page - 997, (5) 1987 I.J.R. - Page - 9.517, (6) 1988 (1) S.L.R. Page - 351 Para - 2, (7) 1988 (1) S.L.R. Page - 350 Para - 4-5, (8) 1992 U.J. (S.C.) Page - 521.

He has not even indicated the relevance of their ^{se} ~~decisions~~ decisions. He has filed a copy of the decisions of the Supreme Court in Rajendra Singh Vs. State of Punjab 1988 (1) SLR - 351. That decision is that ad hoc teachers are entitled to continue in service till regular selections are made by the Public Service Commission. That is also

one of the terms of the applicant's appointment and hence, he can, at least claim to be in service till the candidate, regularly selected by the Staff Selection Commission joined on 11th May, 1992. The learned counsel for the respondents has produced a copy of the decision of this Bench dated 7.10.1987 in TA/1166/86 and TA/1177/86, wherein it was declared, in similar circumstances, that the services of the applicants therein will stand terminated from the date on which the nominee of the Staff Selection Commission reports for duty.

11. For the foregoing reasons, we are satisfied that this application can be disposed of with suitable directions to the respondents. Accordingly, while quashing the impugned order dated 26.2.1991, by which the applicants' service was terminated, we direct the second respondents to treat the applicant as having continued in service till 11.5.1992., i.e., till the date when the candidate selected by the Staff Selection Commission reported for duty and pay the applicant his salary for this period, within two months from the date of receipt of this order. The application is disposed of as above without any order as to costs.


(R.C. Bhatt)
Member (J)


15.9.92
(N.V. Krishnan)
Vice Chairman
15.09.1992.

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