

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 1219 of 1996

Date of ordere : 31.7.2001

Present : Hon'ble Mr. D.Purkayastha, Member(J)
Hon'ble Mr. V.K.Majotra, Member(A)

Balasubrahmanian Subbiah,
Ex Bungalow Peon under the
Chief Elec. Engineer, S.E.Rly.
Garden Reach, Calcutta-43

VS

1. Union of India through the
General Manager, S.E.Rly. GRC,
Calcutta-43
2. Chief Personnel Officer,
S.E.Rly. GRC, Calcutta-43
3. Chief Elec. Engineer,
S.E.Rly. GRC, Calcutta-43

Respondents

For the applicant : Mr. B.C.Sinha, Counsel

For the respondents : Mr. S.Chowdhury, Counsel

O R D E R

D.Purkayastha, J.M.:

In this OA, the applicant has challenged the validity and legality of the impugned order dated 21.9.92 (annexure-A3) issued by the Dy. Chief Personnel Officer (M&EL), S.E.Rly. from the office of Chief Personnel Officer, SE Rly. terminating the service of the applicant with effect from 14.9.92. It is stated in the order that the service of the applicant were no longer required by the SE Railway administration due to his unsatisfactory working. According to the applicant, he joined as substitute Bungalow Peon and attached to the Chief Electrical Engineer, Garden Reach, Calcutta in regular service w.e.f. 2.3.92 as per appointment order dt. 20.4.92 (annexure A3). He has been rendering service to the satisfaction of the

authorities concerned till the date of termination of his service as per the impugned order on the ground of his unsatisfactory service which means stigma. He contends that there was no complaint against him and no DA proceeding was initiated against him either. Therefore, the impugned order of termination is bad in law and is liable to be quashed.

2. The respondents deny the allegation of the applicant by filing a written statement. According to the respondents the order of termination is valid in law and the applicant was given one month's notice pay on 14.9.92. Therefore, the applicant cannot challenge the order of termination as he was only a casual worker.

3. Mr. B.C.Sinha, 1d. counsel for the applicant contended that the expression used in the impugned termination order i.e. "unsatisfactory working" itself amounts to stigma. On the contrary, Mr. S.Chowdhury, 1d. counsel for the respondents contended that unsatisfactory working does not cast any stigma.

4. We have considered the case very carefully in view of the divergent contentions raised by both parties. A persual of the impugned order dated 21.9.92 (annexure-A3) clearly shows that the service of the applicant was terminated on the ground of his unsatisfactory working. It is, therefore, a misconduct for which no appropriate departmental proceeding was initiated against him and instead he was straightway terminated from service. Moreover, it is found that the order of termination was issued on 21.9.92 terminating the service of the applicant retrospectively from 14.9.92 which is also not proper.

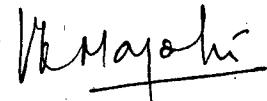
5. 1d. counsel for the applicant has relied on a decision of the Tribunal reported in 1991 (2) ATJ 408 (Ashok Kumar -vs- UOI) where a similar case was dealt with by the Principal Bench and it was decided that such type of remarks in the termination order amount to stigma and that it is not a case of termination simpliciter.

6. In view of the above, we are unable to sustain the order of termination dt. 21.9.92 (annxure-A3) and accordingly it is set aside. The respondents are directed to reinstate the applicant to

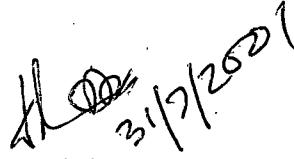
(3)

his former post forthwith. Regarding back wages, we are of the view that the applicant would not be entitled to get the benefit of back wages from the date of his termination till he approached this Tribunal. In other words, he will be entitled to get back wages and other service benefits w.e.f. 4.10.96 i.e. the date of filing of this OA. The respondents will be at liberty to take appropriate action^{against the applicant} as per law if they so like.

7. The application stands disposed of accordingly without any order as to costs.



MEMBER(A)


31/7/2021

MEMBER(J)