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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH : JODHPUR

Date of order : 27.08.1998

O.A. No. 394/96

Rewat Singh son of Shri Gaje Singh aged 28 years Ex-Civil Mess Waiter,  
Officers Mess 4 (Independant) Armoured Brigade C/o. 56 A.P.O., r/o.  
Village Bhalu Kala, District Jodhpur.

... Applicant.

v e r s u s

1. Union of India through the Secretary to the Government, Ministry of Defence, New Delhi.
2. Officer Commanding, Headquarters Squarden, 4 (Independant) Armoured Brigade C/o. 56 A.P.O.

... Respondents.

Mr. Vijay Mehta, Counsel for the applicant.

Mr. Ram Narain, Advocate, Brief holder for Mr. P.P. Choudhary, Counsel for the respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

(Per Hon'ble Mr. Gopal Krishna)

Applicant, Rewat Singh, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, assailing the termination of his services on the post of Civil Mess Waiter by the respondents with effect from 30.11.1996 vide Annexure A/1 dated 21.11.96.

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

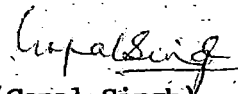
3. Applicant's case is that he was appointed as Civil Mess Waiter by the respondent No. 2 on 7.12.94. The letter of appointment was taken back by the respondent No. 2 from the applicant on the same date, but the applicant was allowed to join his duty. However, a show cause notice was issued by the respondent No. 2 on 26.9.96 (Annexure A/3) by which he was

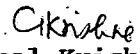
required to show cause as to why his services should not be terminated for not taking interest in his trade work and his utter failure as a Waiter. The applicant replied to the show cause notice vide Annexure A/4 dated 5.10.96. The impugned order of termination has been called in question on the ground that the same has been passed by way of punishment without holding an enquiry.

4. The respondents have stated in the reply that the applicant was appointed on 7.12.94 after the sanction for the same was granted by the Headquarter vide communication dated 9.11.94 at Annexure R/1. It is also stated that a show cause notice was issued to the applicant on 26.9.96 and the applicant was called in the office of the Officer Commanding where the notice was read over to him. It is categorically stated by the respondents that the applicant in any case could not have been allowed to continue beyond two years as per para 5(c) of the circular dated 13.12.79 at Annexure R/3 regarding the employment of the civilians in lieu of combatants.

5. The learned counsel for the applicant has urged that before terminating the services of the applicant, the respondents had not complied with the provisions contained in para 5(c) of the circular referred to above and, therefore, the termination order is bad. The applicant has not produced the letter of appointment. It is stated on behalf of the applicant that the appointment letter has been taken back by the respondent No. 2 from the applicant which fact has been specifically denied by the respondents in their reply. If the appointment letter was taken back by the respondent No. 2 on the date of appointment itself, the applicant should have brought it to the notice of the higher authority. Now, at this stage, it does not lie in the mouth of the applicant to say that the appointment letter was taken back by the respondent No. 2 from him on the very date of his appointment. It is also borne out by Annexure A/3 dated 26.9.96 produced by the applicant himself that he was appointed on 7.12.94 as Mess Waiter in lieu of combatant. Under no circumstances, the applicant who was employed in lieu of a combatant would have been allowed to continue in service beyond the period of two years. The applicant was duly served with a show cause notice.

6. In the circumstances, we do not find any infirmity in the impugned order of termination. The application is devoid of force. It is, therefore, dismissed with no order as to costs.

  
(Gopal Singh)  
Adm. Member

  
(Gopal Krishna)  
Vice Chairman

cvr.