

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**Original Application No. 86 of 2009
Jodhpur, this the 30.10.2009**

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CORAM :

Hon'ble Dr. K.B.Suresh, Member (Judicial)

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Abhishek Garg S/o Shri Harihar Deepak by caste Agrawal, aged about 24 years, resident of 77, Marudhar Nagar, Near Karni Colony, Pali Marwar. Ex. Contract Engineer (Elect.), RITES Limited, RITES Bhawan, No. 1, Sector 29, Gurgaon (Haryana).

Applicant.

[By Advocate : Mr. A.K.Khatri ,Counsel for applicant]

-Versus-

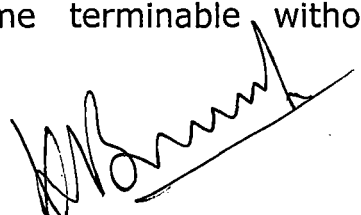
- 1- Rail India Technical & Economic Services Limited (RITES Ltd). through its Managing Director, RITES Bhawan, No.1, Sector 29, Gurgaon (Haryana).
- 2- The Group General Manager (Electrical), RITES Limited, RITES Bhawan, No. 1, Sector 29, Gurgaon (Haryana).
- 3- The Addl. General Manager, (Electrical), RITES Limited, RITES Bhawan, No. 1, Sector 29, Gurgaon (Haryana).
- 4- The Manager (Personnel), RITES Limited, RITES Bhawan, No. 1, Sector 29, Gurgaon (Haryana).

Respondents.

(By Advocate :Mr. Kamal Dave, Counsel for respondents]

**: O R D E R :
[BY THE COURT]**

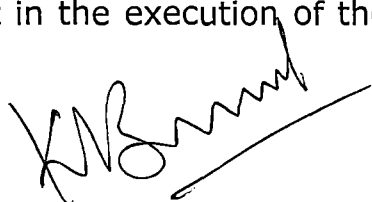
M/s Rail India Technical & Economic Services Limited (RITES Limited) is a Government of India enterprises issued an order Annex. A/2 offering contractual appointment to the applicant. The term of the appointment was held to be twelve months from the date of joining or completion of the project whichever is earlier. This letter was issued to him on 5.1.2007, therefore, on 5.1.2008 or any such following dates the contract became terminable without adverting to any reason(s) whatsoever.



2- In the meanwhile, apparently⁻²⁻ some of the co-workers issued complaints against the applicant to the effect that he had proposed a scheme to them whereby he had apparently mis-led them to believe that he had engaged a team of industrial trained people to do the work from them and they have to give three thousand rupees per month for them. Apparently, none of them visited the site before issuing inspection reports and the applicant, they alleged, were making them to sign the inspection report even though they had never seen the site(s). They alleged further that later on, they discovered that the applicant had not appointed any such persons and he himself was hatching-up some kind of the report and they objected to the payment of money and finally on some bargaining they determined as two thousand rupees per month instead of promised three thousand rupees per month to be paid to the applicant, but, later they complained to the authorities.

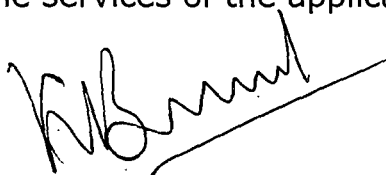
3- The applicant would contend on the other side that even though a fact finding inquiry was held, he had claimed that rupees two thousand collected from each of them was for the taxi fare which they jointly had to bear but, in reply thereof, the respondents states that the traveling allowances were paid separately and, therefore, the question of taxi fare do not come in at all.

4- The respondents would point-out and produced the records to substantiate their contentions. It is now found that in fact, the principal client had complained about some misdeeds and expressed their dissatisfaction. It is also correct to note that the dis-satisfaction covered notonly inspection but the officers of the RITES taking hardly any interest in the execution of the project. But, the complaint of the client



had an effect. It also concised with ⁻³⁻ the complaints made by the co-workers of the applicant.

5- The grievance of the applicant is that there should have been an inquiry in which an opportunity would be provided to him to defend his case under Article 311 of the Constitution of India. But, the respondents would state that Article 311 is not applicable as this is only a contractual appointment for a definite period and the period is already over, even though, in the Annex. A/1 impugned order, a clear-cut mention is made of the mis-conduct committed by the applicant. The applicant would point-out that the persons who had allegedly given bribe to him and had signed inspection reports even though such inspections did not materialize at all, are equally guilty and they are apparently continued in the Organisation. The learned counsel for respondents would submit that these persons were mis-led into believing that the inspection is to be conducted by other people outside the parameters of the Company and thus these persons be remunerated from their own sources. When they discovered that they have been cheated and no such thing existed, they had given a due complaint to the authorities and in any case, the applicant could not have received two thousand rupees from all of them since the distance to be covered, was small and it would not take that much amount even if a taxi was hired. It was also alleged that traveling fares were paid besides all these and, therefore, they would contend that there is no merit in the contentions of the applicant. They would also submit that an inquiry was held in fact and it had come out during the inquiry that serious misconduct had been found against the applicant and, therefore also there is no other way other than to dispense with the services of the applicant.



6- I have gone through the pleadings⁻⁴⁻ of the parties and examined the relevant records and heard the matter in close detail.

7- The applicant would submit that had he been continued till 2011, he would have been in a position to compete for regularization and even that was snatched from him and, therefore even though he is an employee under contract he claims that he is entitled to be considered and given relief under Article 311 of the Constitution.

8- The appointment of the applicant is for clear period and under the power of a contract. There can be no equality between a post in the Government and a contractual opportunity rendered to an Engineer. Therefore, going by the extant legal provisions and the situations provided by the rulings of the Apex Court, (since they are so numerous, it is not covered here). The applicant cannot come under the protective cover of Article 311 of the Constitution. Even though, the respondents is covered under Article 12 of the Constitution. Besides the allegation against him had been inquired into and had been found to be correct notwithstanding the fact that others who may be a party to misconduct are still inside the Company. But that cannot clothe the applicant with any right or grievance to be agitated. In any case, his appointment was clearly a contractual and limited by time and, therefore, liable for termination without causing any stigma. The unfortunate wording in Annex. A/1 may not mention in any clear-cut way about the inquiry held about him. The language in which the order was couched may cause difficulty in the future career of the applicant. In this respect he can claim only through the agency of a Civil Court and not through the Tribunal which is established for a limited purpose. Since I have already found that Article 311 of the Constitution cannot be used as a protective

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envelop for the applicant and since his ⁻⁵⁻ appointment is only contractual and limited by time, no grievance subsists on the part of the applicant but reserving his right to approach a Civil Court for the damages, if any, to the applicant. This O.A. is dismissed.

9- No costs.


(Dr.K.B.Suresh)
Member(J)

jrm

R/C

9/10/09
10/11/09

Received copy of order to 20/10/09
27/11/09

Part II and III destroyed
in my presence on 8/11/09
under the supervision of
section officer () as per
order dated 07/07/15
Section officer (Record)