

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.524/07

Wednesday this the 19th day of March 2008

C O R A M :

HON'BLE MR.JUSTICE M.RAMACHANDRAN, VICE CHAIRMAN

N.Gopi,
S/o.Narayanan,
Temporary Status attained Casual Labourer,
Office of the Assistant Commissioner of Central Excise,
Trivandrum Division, ICE Bhavan, Thiruvananthapuram.
Residing at Lakshmi Vilagom Veedu, Kachani,
Karakulam P.O., Thiruvananthapuram. ...Applicant

(By Advocate Mr.R.Sreeraj)

Versus

1. Union of India represented by its Secretary
to Government of India, Ministry of Finance,
New Delhi.
2. Joint Commissioner (P&V),
Office of the Commissioner
of Central Excise & Customs,
Press Club Road, ICE Bhavan,
Thiruvananthapuram. ...Respondents

(By Advocate Mr.P.A.Aziz,ACGSC)

This application having been heard on 18th March 2008 the Tribunal
on 19th March 2008 delivered the following :-

ORDER

HON'BLE MR.JUSTICE M.RAMACHANDRAN, VICE CHAIRMAN

When the matter had come up for hearing on 11.3.2008,
learned counsel for the applicant had sought time to get instructions from
his client as to whether the O.A was to be prosecuted further.

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2. Mr.R.Sreeraj, today appeared on behalf of the applicant, submits that he has no instructions to withdraw the O.A, and the only submission, to be noted is as to whether there was an amount of arbitrariness in the order passed, whereby the services of the employee had been terminated, with one month's notice. He submits that presumably there was a stigma cast and respondents ought to have proceeded by charge sheeting the employee so that it would have been possible for the applicant to place materials to show that there was no lapses on his part and any order could not have been issued so as to terminate his services. There is, therefore, violation of principles of natural justice.

3. Admittedly, the applicant was employed as a Casual labourer and he has been conferred with temporary status. However, the relevant rules, as cited by the respondents in their reply statement gave them power to dispense with the services of Casual Labourer by giving a notice of one month in writing (see Casual Labourers [Grant of Temporary Status and Regularisation] Scheme, 1993). A copy of the same has been produced as Annexure R-7. It is well settled that principles of natural justice could be circumscribed by contract to the contrary.

4. Also the impugned order, does not stigmatize, the applicant. He has been advised that in exercise of powers, notice was being given to him that the services would stand terminated after a period of one month. Of course, in answer to the submissions made in the application, the respondents have made available certain details, which shows that the conduct of the applicant was not satisfactory, and he had been arrested by

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police in a theft case. However, these materials had come only when the applicant had invited the comments, which had been incorporated by him in the Original Application. It may not be necessary for me to advert to them in detail.

5. When the contractual rights are enforced and when there is no stigma attached, normally, it may not be possible for the Tribunal to interfere in the matter.

6. No other ground had been urged by the applicant. In view of the above discussion, the O.A is dismissed. However, this order by itself would not preclude the applicant from putting up any submissions, in respect of the monetary entitlements to which he might be otherwise eligible. If representation is submitted within a reasonable time, it should be looked into appropriately and the applicant is to be advised of the outcome of the above.

(Dated this the 19th day of March 2008)


(M.RAMACHANDRAN)
VICE CHAIRMAN

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