

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 355
~~C.A. No.~~

199 1

DATE OF DECISION 9.1.92

Nowshad P.B. Applicant (s)

M. R. Rajendran Nair Advocate for the Applicant (s)

Versus

The Chief Commercial Supdt. Respondent (s)
Head Office, Commercial Branch (Catering)
Madras and others

Smt. Sumathi Dandapani, Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

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. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

MR. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant is aggrieved by Annexure-I order dated 8.8.89 by which the respondents rejected the representation submitted by him to the showcause notice received by him and terminated his service with immediate effect.

2. The applicant submits that he has been engaged in the Railway Pantry car on daily rate basis since 1981. While so working, he received Annexure-II showcause notice dated 22.7.88 to showcause why action should not be taken against him for unauthorisedly absenting himself from June, 1987. He submitted a reply to the show cause notice on 13.8.88

Annexure-III stating some reasons and also indicating that he was hospitalised for treatment from June, 1987 to August, 1988, and sent Annexure-IIIA medical certificate dated 18.8.88 in support thereof. This explanation has been found unacceptable by the respondents and Annexure-I order was passed terminating his service. It is also brought to our notice that Annexure-I order also refers to another representation dated 25.5.89 made by the applicant which is at Annexure-IV, also in connection with the same show cause notice.

3. The learned counsel for the applicant submits that though the show cause notice was issued to him and Annexure-III and IV representations have been submitted, there is no consideration of any of the statements made by him and the explanation has been rejected without assigning any reasons. He has therefore prayed to quash Annexure-I and direct the respondents to reinstate the applicant with full backwages.


4. The respondents submitted that the applicant was employed by a contractor for cleaning the pantry cars. It is stated that only after the decision rendered by the Hon'ble Supreme Court in AIR 1987 SCC 777, the respondents decided to take over the labourers engaged by the contractor as their own casual labourers from 1.4.87. The applicant was such a casual labourer. He was irregular in attendance in April and May, 1987 and thereafter, he absented from service w.e.f. June, 1987. According to the respondents, the

applicant has not even put in service of four months⁵ and is not entitled to even notice before his service is terminated. His explanation was however, considered and since it was found unsatisfactory, Annexure-I order was passed.

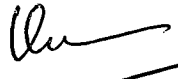
5. We are satisfied that having issued a show cause⁵ notice as at Annexure-I, irrespective of whether the applicant was entitled to such a notice or not, the respondents are bound to consider the replies^(An III X An IV) made by him, and pass an order assigning reasons for their conclusions. Since this has not been done, we are ^u ^u ^u ~~not~~ satisfied, the principle of natural justice has been violated.

6. In the circumstances, Annexure-I order is liable to be quashed and it is ordered accordingly. We dispose of this application with ^{3 direction 2} the observations ~~xxxxxxxx~~ ^{u to} that ~~this order would not stand in the way of~~ ^u the respondents ^{to} considering the representations made by the applicant to the show cause notice and pass a fresh order within a period of two months from the date of receipt of this order after giving an opportunity ^{u to the} ^{u 2} of applicant, being heard and the question of re-engagement and consequential benefits will ~~be~~ ^{be} abide by the order that may be passed by the respondents.

7. There will be no order as to costs.


9.1.92
(N. DHARMADAN)
JUDICIAL MEMBER

KMN


9.1.92
(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER