

(16)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 715/87
 TXAXXXDX

198

DATE OF DECISION 13/12/1989

Shri K.M.Korade and another Petitioners

Shri S. Paul Sundarajan Advocate for the Petitioner(s)

Versus

Union of India and others. Respondents

Mr.R.C.Kotiankar for Mr.M.I. Advocate for the Respondent(s)
 Sethna.

CORAM

The Hon'ble Mr. M.B.Mujumdar, Member (J)

The Hon'ble Mr. M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? NC
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

✓

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA No. 715/87

1. Shri Kisan Murlidhar Korade
2. Shri Ashok Machru Raykar,
C/o. M.M.Korade,
89, Sukhapur Peth,
Karanjkar Lane, Bhagur 422 502,
Dist. Nashik (Maharashtra) ... Applicants

v/s.

1. The Union of India,
Represented by the Secretary,
Ministry of Defence, Govt. of India,
New Delhi.
2. The Director General of Artillery,
Army Head Quarters, New Delhi.
3. Head Quarters, Artillery Centre,
Nashik Road Camp, Dist. Nashik.
4. Head Quarters, Armoured Corps
Centre & School, Ahmednagar. ... Respondents

CORAM: Hon'ble Member (J) Shri M.B.Mujumdar
Hon'ble Member (A) Shri M.Y.Priolkar

Appearances :

Mr. S.Paul Sundarajan
Advocate
for the Applicant

Mr.R.C.Kotiankar
for Mr.M.I.Sethna
Advocate
for the Respondents

ORAL JUDGMENT

(PER: M.B.Mujumdar, Member (J)

Dated: 13.12.1989

Applicant No. 1, Shri K.M.Korade, was appointed as a Barber w.e.f. 7.5.1984 provisionally and temporarily. It was mentioned in the order that his services would be terminated at any time without giving any reasons, after giving one month's notice or pay in lieu of notice. By notice dated 8.6.1985 his services were terminated w.e.f. the date of expiry of one month from the date on which the notice was served on him.

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2. Similarly, Applicant No. 2, Shri A.M.Raykar was appointed as a Barber provisionally and temporarily w.e.f. 24.5.1984. In his case also it was mentioned in the appointment letter that the services would be terminated at any time without giving any reasons after giving one month's notice or pay in lieu of notice. By notice dated 28.6.1985 his services were terminated w.e.f. the expiry of one month from the date on which notice was served on him.

3. The names of both the applicants were sent by the Employment Exchange. Their services were terminated under Rule 5 (1) of the Central Civil Services (Temporary Service) Rules, 1965. There is no dispute that they are paid one month's pay and other arrears due to them.

4. The applicants have filed this application challenging the termination of their services under Rule 5 (1) of the Central Civil Services (Temporary Service) Rules, 1965. They have also prayed for reinstatement with back wages.

5. Respondents have not filed their reply.

6. We have just now heard Mr. Paul Sundarajan, learned advocate for the applicants and Mr.R.C.Kotiankar for Mr. M.I. Sethna for the respondents.

7. Admittedly, the applicants were appointed on temporary basis and they were temporary employees when their services were terminated. The notices by which their services were terminated do not give any reason for termination. In other words, no stigma was cast on them. If the respondents did not find the services of the applicants necessary, they were entitled to terminate their services under Rule 5 (1) of the Central Civil Services (Temporary Services) Rules, 1965.

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Hence, we hold that the termination of services of the applicants was proper and legal.

8. In R.P.More v. Union of India, Tr.18/88 decided on 25.9.1989 we have taken the same view. In para 8 of the judgment we have quoted observations of the Supreme Court in State of U.P. v. Ramchandra Trivedi, 1976 SLJ 583 which we quote below :-

"Keeping in view the principles extracted above, the respondent's suit could not be decreed in his favour. He was a temporary hand and had no right to the post. It is also not denied that both under the contract of service and the service rules governing the respondent, the State had a right to terminate his services by giving him one month's notice. The order to which exception is taken is ex facie an order of termination of service simpliciter. It does not cast any stigma on the respondent nor does it visit him with evil consequences, nor is it founded on misconduct. In the circumstances, the respondent could not invite the Court to go into the motive behind the order and claim the protection of Article 311 (2) of the Constitution."

9. Mr. Paul Sundarajan relied on Government of India, Ministry of Defence O.M. dated 24.8.1968 and submitted that the respondents have not followed the instructions given therein. But these instructions are regarding retrenched workmen. There is no question of retrenchment in this case. As the applicants' services were found surplus, the same are terminated by giving one month's notice. We do not think that the instructions in the said Memo are applicable in this case.

10. In result, we dismiss the application with no order as to costs.

11. By order dated 6.10.1988 the applicants were awarded costs of Rs.150/- for not filing the reply in time. Mr. Sundarajan submits that the costs are not paid to him or the applicants. Respondents to pay these costs to the applicants or their advocate within one month from today.


(M.Y. PRIOLKAR)
MEMBER (A)


(M.B. MUJUMDAR)
MEMBER (J)