

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 389/87 199
T.A. NO:

DATE OF DECISION 27.9.1991

Shri Divakar Soma Shinde Petitioner

S Advocate for the Petitioners

Versus

Union of India & Anr. Respondent

Shri A.I.Bhatkar. Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman,

The Hon'ble Mr. A.B.Gorthi, Member(A).

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. Whether it needs to be circulated to other Benches of the Tribunal ?


(U.C.SRIVASTAVA)
VICE-CHAIRMAN:

mbm*

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.389/87.

Shri Divakar Soma Shinde.

... Applicant.

V/s.

Union of India & Anr.

... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri A.B.Gorthi, Member(A).

Appearances:-

Applicant in person.

Respondents by Mr.A.I.Bhatkar.

Oral Judgment:-

¶Per Shri Justice U.C.Srivastava, Vice-Chairman¶ Dt.27.9.1991.

The applicant is present in person and Mr.A.I.Bhatkar counsel is present for the respondents. The applicant states that his lawyer has not come today, but in case he gets a fresh employment he will not claim any past benefit and he will be preferred to work on a probationary period of 2 years & more.

2. The applicant after due selection was appointed as Light House Attendant on a temporary basis on 18.7.1985. The appointment order indicated that he was placed on a probation for two years. But he was also granted annual increment after expiry of one year w.e.f. 1.7.1986 vide order dt. 3.7.1986. But two months thereafter by order dated 23.2.1987 his services were terminated. The applicant pleaded that he was never appointed on probation as the final order which was received by him does not indicate the same. May be so but the letter which is on the record, indicates that he was placed on a probation of two years. It has been pleaded by him that there was no flaw in his work and no such flaw has been pointed out and yet his services were abruptly terminated although he was never charge sheeted and no opportunity whatsoever was given to him.

3. The respondents have contended that the applicant was transferred from Bombay to Rajapur vide order dt.28.2.1986 only few months after annual increment was granted to him. It has

been stated that this was done in order to give an opportunity to show good performance. If the applicant's performance would not have been good he would not have been granted annual increment on 3.7.1986. It may be that there was deterioration in his work and later on he was adjudged to be unsuitable, although there is some indication to that effect on record which has been produced before us, but this much is clear that the applicant's annual increment was granted to him after his posting at Rajapur and the order which has been passed is a non-speaking order. However, it is the right of the employer to terminate the services of an employee who is on probation, but in view of the facts of this case the applicant could have been given one more opportunity, but even that opportunity was not given to him and the employer have exercised their full right in this behalf. Although we are not interfering with the termination order, but as it is a fit case in which applicant should be re-employed by the respondents whose action could not be fully justified as legal and accordingly we direct without quashing the order that the applicant may be re-employed without any delay on the same terms and conditions. Let he be re-employed latest by 1st October, 1991. With this observations the application is finally disposed of. No order as to costs.

Shambegar
(A.B.GORTHI)
MEMBER (A)

U.C.5
(U.C.5RIVASTAVA)
VICE-CHAIRMAN.

B.M.S.