

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

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T.A. No. 12/87

DATE OF DECISION 11.4.1988

Shri D.M.Jagdale

Petitioner

Advocate for the Petitioner(s)

Versus

Dy. Director, Subsidiary Intelligence Bureau and three others. Respondent(s)

Shri S.R.Atre for Sh.P.M.Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice Chairman

The Hon'ble Mr. L.H.A.Rego, Member (A)

- 1. Whether Reporters of local papers may be allowed to see the Judgement? - Yes
- 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?

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

Tr.A.No. 12/87

Shri D.M.Jagdale,
Peon, I.B.,
post - Savangi (Harsool),
Ajanta Road,
District - Aurangabad.

Applicant

v/s.

The Deputy Director,
Subsidiary Intelligence Bureau,
Tata Press Building,
3rd Floor, Veer Savarkar Marg,
Prabhadevi, Bombay.

AND THREE OTHERS.

Respondents

CORAM: Hon'ble Vice Chairman Shri B C Gadgil
Hon'ble Member (A) Shri L.H.A.Rego

Appearance

Shri S.R.Atre
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 11.4.1988

(PER : B C Gadgil, Vice Chairman)

Writ Petition No. 945/86 of the file of High Court
of Judicature at Aurangabad is transferred to this Tribunal
for decision.

2. The applicant has a grievance about the termination
of his services under Rule 5 (1) of the Central Civil
Services (Temporary Service) Rule, 1965. The said order
(notice) is dated 26.10.1984.

3. The applicant was appointed in the temporary post
of a Peon on 10.6.1980, in the then pay scale of Rs.196-3-
220-EB-3-232, by Respondent (R) 2, in the Office of the

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Intelligence Bureau, at Nanded. He was posted to Parbhani on 16.4.1981 in the same capacity. On 1.5.1982 (Exhibit E), R-3 forwarded a copy of the confidential memo dt. 27.4.1982, from R-4 to R-2, informing him, that the applicant was showing signs of mental imbalance. He therefore sought the approval of R-2, to send the applicant to ~~the~~ ⁴⁸ Civil Surgeon, Parbhani, for medical examination in regard to his psychic ailment. However, before this could be done, the applicant abruptly proceeded on one month's leave from 26.4.1982. That leave was extended till 24.7.1982. The applicant resumed duty on 26.7.1982 F.N., on production of a medical fitness certificate (vide Exhibit 'H' to the reply). He worked for a few months and thereafter, applied for casual leave of 10 days from 8.11.1982, on expiry of which, he did not resume duty, but remained absent for an inordinately long period of about two years. Thereafter, he sent a letter on 16.10.1984 (Ex.'J') to R-2, stating that he was taking medical treatment and would recover from his illness within a period of 2-3 months. R-2 (Exhibit 'K') issued the impugned order (notice) dt. 26.10.1984 terminating the services of the applicant, under Rule 5 (1) of the Central Civil Services (Temporary Service), 1965, with effect from the date of expiry of a period of one month from the date of this order (notice). As stated above, it is this order (notice) that is being challenged here.

4. At the time, when this matter was placed for admission, the applicant presented a Misc. Petition with a request, that the same be decided after perusing the papers on record, as he would not be attending the Tribunal on the next date. Thus, the applicant is not

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present today, before us. However, Shri Atre (for Shri P.M.Pradhan) Counsel, for the respondents placed all the relevant facts before us, to help arrive at a fair and just decision in this case.

5. The applicant has stated in paragraph 5 of his application, that he was suffering from mental illness and has contended that one Shri Shahapure was also suffering from similar illness but the services of Shri Shahapure were not terminated. Shri Atre informed us, that this was not correct. According to him, Shri Shahapure had not suffered from any mental ailment. On the contrary, he pointed out, that he had earned promotion and was acquitted himself well in the post of promotion.

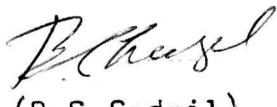
6. The applicant has stated, that he should have been afforded an opportunity to work in the organisation. It is, however, important to note, that the applicant's services have not been terminated by way of penalty. It is a simple termination. The aforesaid letter dt.10.10. 1984 from the applicant, reveals, that even till that time he had not recovered from his mental illness and he was hoping to be cured within about 2-3 months. The applicant was absent from duty for a continuously long period from 8.11.1982 till 16.10.1984.

7. There is substance in the contention of the respondents, that in the peculiar facts of this case the department has taken proper action in terminating the services of the applicant by giving him one month's notice. The applicant was working, is an Office of the

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Central Intelligence Bureau where maintenance of security and secrecy are of paramount importance. Shri Atre is therefore right when he contends that it would be hazardous to continue the applicant in such a sensitive organisation, despite his mental ailment which has remained uncured for long.

8. Under these circumstances, the application fails and is, therefore, dismissed. There would, however, be no orders as to costs.


(B.C.Gadgil)
Vice Chairman


(L.H.A.Rego) 11.4.1989
Member (A)