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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

ORIGINAL APPLICATION NO.710/88

Shri Amar Bahadur Singh

.... Applicant

V

The Union of India  
and ors.

.... Respondents

CORAM : HON'BLE JUSTICE Shri U.C.Srivastava, Vice-Chairman  
HON'BLE MEMBER SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance:

Mr.D.V.Gangal, Adv.

for the applicant

Mr.V.S.Masurkar, Adv,

for the respondents.

JUDGEMENT

DATED: 12.8.91

(PER: U.C.SRIVASTAVA, V/C)

The applicant who was a Constable in the Central Reserve Police Force fell down sustaining grievous injury and thereafter he was medically declared unfit and as such he was retired from service on 10.10.1982 and was granted pension. After retirement the applicant got himself registered again in the Employment Exchange who forwarded his name to the India Government Mint, Bombay for the temporary post of a Peon. The applicant was appointed vide the order dated 5.12.1986. His services came to an end on 31.8.1988 in respect of which intimation was given to him on 12.7.1988 telling him that the sanction for the post expires on that date and the same will not be available to him after that date.

2. The applicant has alleged that he was directed to work at the house of Respondent No.2 Shri Kahate and he was doing the work including operating the accounts, the details of which have been given in the application. But as he was asked to do the work of washing of soiled clothes, ironing of washed clothes, sweeping the floor, clearing of floor, going to market for fetching vegetables and other items the applicant politely refused to do the work of washing and cleaning of clothes and ironing them out which annoyed Smt.Kahate against which she made a complaint to Shri Kahate, The Respondent No.2 instructed thereafter that he will have to sweep the office premises from that date and a letter in this behalf was also issued to him on 3rd September 1987. The letter states that the applicant has refused to sweep the surface area of the office to maintain it clear and decent on 3rd August 1987, the day the NNP Office started functioning i.e. New Note Press Protect and he was explained that cleaning and sweeping the office area was his duty and he has to perform it and despite repeated instructions he has not swept the same and as such he was again instructed to perform all the duties of the Peon including sweeping of the office area. The applicant in his reply stated that he was not agreeable to do the sweeping work. He was ordered to clear toilets and knowing it that it was the duty of sweepers and for which sweepers are provided for the work, the applicant also did not agree to perform the said work. Thereafter, the Accounts Officer submitted a note to the effect that the applicant was explained in the

beginning at the time of interview that these are the work to be performed by him but the applicant has refused to do the work as such sanction for continuation of the post of temporary Peon may not be obtained and the sanction for the post of Sweeper may be obtained. According to the applicant no Peon was working in the office and thereafter the order the order by which put an end to his service referred to above was sent to him. The Applicant has challenged the termination order on a variety of grounds including malafide that it was by way of punishment maintain to us violative of Article 311 of constitution of India and in violation of Section 25(F) and 25(N) of the Industrial Disputes Act which were applicable as it was an industrial establishment.

3. On behalf of the respondents the said Shri Kahate who was officer on special Duty having his office at Mint House at New Note Press Project has filed his own affidavit. The Learned counsel for the applicant contended that certain allegations regarding operation of accounts and works sought to be taken have not been denied. The contention does not appear to be correct as full denial is not only contained at one place but are contained in other places. It has been denied that the order was arbitrary, illegal or malafide. But it has been stated that as the sanction has come to an end and that is why his services were terminated and even then he was offered the post of Peon which was available at Noida where the office has shifted on 21st December 1987 itself. The allegations of malafide of taking of the work given by Smt. Kahate have been denied in paragraphs 11, 12, 13 and it has been stated that all such allegations

regarding taking of the work which has been assigned by Smt. Kahate were work and the respondent was a senior officer and there were servant quarters already attached to his residence and the services of the applicant for the purposes, which have been stated by him were not required. But it has been stated that as a matter of fact the applicant's performance was not satisfactory and just eight months after his appointment he started refusing to do the work allotted to him and violated even after being informed his duties. He performed the job of delivering 4 or 5 letters a day in the Mint office on an average. He was given every chance to amend himself. Even the senior level officer talked to him trying to persuade him to do the duties but he continued with his refusal. All the attempts to persuade him failed and he was found to take away copies of official documents by using the xerox machine without permission and fraudulently and was warned orally. But even then he continued to do this work. It has further stated that the posts of Peon and Driver are the temporary posts to meet the limited needs of the project office comprising of five personnel. A request was made to the Ministry of Finance for additional post of Sweeper/ Helper and as it was apprehended that due to strict economy in expenditure the Government may not sanction additional post and may grant the Post only in lieu of the post of Peon. As such the the applicant was advised by memo dated 12.7.1988. The necessity of the post of

Sweeper/Helper was greater in the interest of cleanliness which was brought to the notice of the Ministry and the said post was sanctioned. Thus all the allegations of malafide etc. have been denied and from the facts which have been denied and from the facts which have been stated above it is clear that the applicant's services have not been terminated by way of punishment.

4. Some more details regarding sweeping etc and the duties have been stated. It is not necessary to give details of the same except that it has been specifically stated that Mint office Peons attend sweeping and cleaning of the office every day and the applicant was not called upon to sweep and clean office so long as New Note Press is functioning from the Mint office premises. It was only when it was shifted to the present premises he was asked to do it and from the first day he refused to sweep the same in spite of being instructed by the Accounts Officer. Thereafter all the other officers failed and then the written proposal was given to him. The fact as stated above thus rule out any allegation of malafide or arbitrary or that his services were terminated by way punishment.

5. So far the applicability of Industrial Disputes Act it has been stated that the New Note Press Project Office was entrusted with the work of feasibility studies for setting up new bank note printing presses. Few posts were sanctioned for one year in the first instance and thereafter were extended from time to time and the last

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extension expired on 31st August 1988 thereafter it was extended for six months only upto 28.2.1989. As the office is only for preparing project obviously no manufacturing, production or business is involved in the same. It is only a project office meant for conducting the feasibility studies for establishing new bank note printing presses. Obviously it could not be said to be an industry producing manufacturing unit or carrying out any business and the project thus not being industry the provision of Industrial Disputes Act will not apply. The services of the applicant which was put to an end to which case the sanction for the same was not received and another post was created. The learned Counsel argued that when a post was created and a person was appointed and a clever device was adopted to part away with his services. Obviously if an office <sup>is</sup> satisfied that one person was needed the respondents cannot be compelled to have more persons. The applicant was offered another job but he himself did not accept the same. In case he is interested in doing the same obviously it is for him to approach the office which now has been stated to have shifted to Noida and elsewhere. Thus there is no merit in this application and accordingly the application is dismissed with no order as to costs.



(M.Y.PRIOLKAR)  
M(A)



(U.C.SRIVASTAVA)  
Vice-Chairman