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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO:

199

T.A. NO:

7/88

DATE OF DECISION 7.8.1992

S.D.KAMBLE

Petitioner

Applicant in person

Advocate for the Petitioners

Versus

SMRX UNION OF INDIA & ORS

Respondent

SHRI S.K.SHETTY

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. JUSTICE S.K.DHAON, Vice-Chairman

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 ?
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 ?

(S.K.DHAON)
V/C

mbm*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

TR.NO. 7/88

S.D.Kamble,
131, Solapur Bazar,
Pune-
PIN-411001.

... Applicant

V/s

Union of India,
and others

... Respondents.

CORAM : HON'BLE JUSTICE MR.S.K.DHAON, Vice-Chairman

HON'BLE SHRI M.Y.PRIOLKAR, MEMBER (A)

Appearance :

Applicant in Person

Shri R.K.Shetty, for
the Respondents-

ORAL JUDGEMENT

7th AUGUST 1992

(PER : JUSTICE S.K.DHAON, Vice-Chairman)

This suit had come to us on transfer from
the Court of Civil Judge, Pune.

On 8th February 1986, Air Officer Commanding,
in the purported exercise of powers under Sub-rule 1,
Rule (5) of the Central Civil Services (Temporary
Services) Rules, 1965, gave notice to the plaintiff,
a Lascar (TY), that his services shall come to an end
from the expiry ^{of a} period of one month the date of the
receipt of the notice/order. The plaintiff had
instituted a Civil Suit No.1115/86 in the Court of
Civil Judge *challenging the legality of the said notice/order*

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2. In the plaint, the plaintiff came out with the specific case that he acquired quasi-permanent status. A written statement had been filed on behalf of the defendant in the suit. This statement was verified by Wing Commandor V.N. Deshmukh. Even before this Tribunal a Written statement has been filed, which has been verified by Wing Commandor D.C. Gupta. before the learned Civil Judge as well as In the written statements filed before this Tribunal, the defendants (Respondents) has taken a specific defence that the plaintiff continued to be a probationer or a temporary government servant and did not acquire the status of quasi-permanent employee.

3. The only controversy to be resolved by us is whether the defendants could treat the plaintiff as a temporary servant and, therefore, take resort to sub-rule 1 or Rule (5) aforementioned. We have gone through the service book of the plaintiff which has been produced by the defendants. It discloses that the period of probation of the plaintiff was to come to an end was 16th September 1982. It also discloses that on 16th October 1982 a Departmental Promotion Committee was held to consider whether the plaintiff could be removed from the probationary period. A decision was taken that, since the work and attendance of the plaintiff was very poor, his case should be reviewed after six months. It also indicates that in order to remove the probationary period after six months an assessment report was called for from the then Section of the applicant. The report was attached therewith. We find that two reports were given with respect to the plaintiff by two different officers on the same date viz. 11.6.1983. There were no remarks adverse to the plaintiff in the said reports.

On the contrary, his work and conduct etc. was found to be satisfactory. Thereafter the matter was considered on 27.6.1983. On 28th July 1983, two different officers recommended that the period of probation of the plaintiff may come up to an end. Final approval was given by Wing Commandor concerned on 19.7.1983. It is thus clear that on 19.7.1983 the plaintiff ceased to be on probation.

4. On 8th February 1986 the plaintiff was not a probationer. He was a regular employee. Rule 5(1) was not applicable to him on that date. Disciplinary proceeding could be taken against him and punishment ~~too~~ could be awarded, if a case has been made out. Indeed, proceeding under Rule 14 of the CCA Rules were drawn up and notices too were issued to the plaintiff. For some reason or the other the Air Officer Commanding took a volte-face. He thought it proper to treat the plaintiff as a temporary hand and removed ^{him} from service under Rule 5 aforementioned.

5. We are satisfied that the notice issued or the order passed terminating the services of the plaintiff were without jurisdiction. The same, therefore, are not sustainable.


6.

The suit is decreed.

The impugned notice/order is set aside. The defendants are directed to treat the plaintiff as having been in service all along without any break or interruption. The defendants are directed to re-instate the plaintiff in service. They are also directed to pay to the plaintiff the back-wages on the footing that he has been in continuous and un-interrupted service.

7. There shall be no order as to costs.


(M.Y. PRIOLKAR)
M/A


(S.K. DHAON)
V/c