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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

ORIGINAL APPLICATION NO. 834/89

SHRI PRABHAKAR WAMANRAO GAIKWARD
Labour (unskilled) in Ordnance
factory, Dehu Road, Pune.

Vs.

The General Manager,
Ordnance Factory,
Dehu Raod, Dist. Pune.

CORAM : HON'BLE SHRI P.S.CHAUDHURI, MEMBER (A)
HON'BLE SHRI T.C.REDDY, MEMBER (J)

Appearance :

Mr. Anupkumar Sinha,
Adv. for the applicant

Mr. R. K. Shetty, Adv
for the respondents

ORAL JUDGMENT

(PER : P.S.CHAUDHURI, M/A)

DATED 16.7.1991

This application under Section 19 of the Administrative Tribunals Act, 1985 was filed on 26.10.1989. In it the applicant who was appointed as Labourer (US) in the Ordnance Factory, Dehu Road by order dated 17.1.1989 is challenging the order dated 24.2.1989 by which his services are terminated.

2. It is the applicant's case that although the impugned order dated 24.2.1989 on the face of it appears to be an order simpliciter, the actual fact is that his services were terminated on the ground of furnishing false declaration. As this casts a stigma on him he should have been given an opportunity of being heard before the impugned termination ^{order} was passed. The respondents have opposed the application by filing their written statement. It is contended that after the appointment, when a detailed clearance of the character and antecedents of the applicant was made based on the attestation form filled in

by the applicant, it was found that false information had been furnished and factual information regarding the applicant having been taken into custody from 12.30 to 16.00 on 21.1.1988 had been suppressed therein. It is pointed out that the terms of the appointment warrants such termination.

4.3 We have heard Mr. Anupkumar Sinha, learned counsel for the applicant and Mr. R. K. Shetty, learned counsel for the respondents. As only a short point is involved and the legal position in this regard is quite clear, we admit this application and proceed to decide it at the admission stage itself.

4.5 No doubt in the attestation form that was issued to the applicant there is a clause that furnishing of false information or suppression of any factual information in the Attestation form would be a disqualification and is likely to render the candidate unfit for employment under the Government. However, when this applicant has been appointed after regular selection and he has been duly performing his duties, before terminating his service on the grounds of furnishing false information and suppressing material facts, the applicant had to be given an opportunity of being heard. The failure to do so is violative of the well recognised principle of natural justice.

It is true that the order of termination is only an order simpliciter and on the face of it no stigma is cast on the applicant. But the written statement of the respondents makes it clear beyond any doubt that it was not an order simpliciter but was passed because of suppression of material facts and furnishing of false information. Mr. Shetty sought to contend that there was nothing wrong in the respondent's action and cited Sanjiv Kumar Aggarawal and others V. Union of India and others, 1987 SLJ(CAT) 353 at 374, in support of his contention. But that case can be readily distinguished. In that case the applicants had obtained appointments by fraud and the Tribunal found it necessary to ascertain certain facts from the applicants themselves and found that none of them was finally selected or

or appointed and that some had not even applied for the post. That is not at all the position ^{present} in the case. It is not disputed that the applicant was appointed to the post of by virtue of a valid letter of appointment. In this view of the matter, we have no difficulty in holding that there been a violation of the principles of natural justice when terminating the services of the applicant.

5. In the result we quash the order dated 24.2.1989 by ~~which~~ which the services of the applicant have been terminated and direct the respondents to reinstate the applicant in service forthwith. However, it is made clear that this order shall not preclude the respondents from proceeding against the applicant in accordance with law in the case the respondents desire to terminate his services. As far as the treatment of the period from the applicant's date of removal from service to the date of his re-instatement in service and the applicant's pay and allowances during that period are concerned, the competent authority shall pass orders at the appropriate time(s) in terms of the applicable rules and in accordance with law. In the circumstances of the case there will be no order as to costs.

T. Chandra Sekhara Reddy
(T.C.REDDY)
MEMBER(J)


(P.S.CHAUDHURI)
MEMBER (A)