

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY
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Original Application No.249/89

Shri Vikas Govind Vengurlekar ... Applicant
V/s

The Flag Officer,
Commander-in-Chief,
Western Naval Command,
Bombay 400 001 & 2 Ors. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Shri S.R.Atre, Advocate
for the applicant and
Mr. V.S.Masurkar, Advocate
for the respondents.

ORAL JUDGEMENT:


Dated : 19.8.1991

(Per. U.C.Srivastava, Vice-Chairman)

The applicant is a member of Scheduled Tribe and also handicaped. The name of the applicant was sponsored by the Employment Exchange and thereafter he was selected and appointed as Casual Assistant Store Keeper on 21.5.1987. It appears that on 30th August 1988 four issue vouchers for kerosene oil according to the applicant was given to him by a Sailor Rajkumar on a particular representation. The applicant gave two of the coupons to one Shri Pandey, Ex-serviceman, who wanted extra kerosene. This was noticed by the Master Chief and he reported against the applicant. The applicant states that the money which he has taken from Shri Pandey which from the written statement appears to be Rs.65/- was for handing over to the said Rajkumar was returned to Shri Pandey immediately. But later-on a note was handed over to the applicant. Subsequently a show-cause notice was issued to him on 9th September 1988. The applicant submitted his reply on 19.9.1988 stating the

8

correct fact and prayed that if any mistake has occurred his case may be considered sympathetically. But even thereafter his services were terminated treating him as a temporary employee. In the written statement which has been filed by the respondents it has been stated that the applicant was made regular with effect from 1.10.1988 and he was placed on probation for a period of two years with effect from that date. However, the respondent No.3 was not satisfied with the explanation referred to above and recommended the termination of service of the applicant vide his letter dated 22.9.1988 and accordingly his services were terminated with effect from 15th November 1988 by giving one month's notice under the provision of Rule 5 of temporary service regulations. Therefore the question of holding enquiry in the matter does not arise. The fact that the admissions made in the written statement support the case of the applicant and make it abundantly clear that the applicant's services were terminated by way of punishment. Even if a temporary employee or one who is on probation is entitled to protection under Article 311 of the Constitution of India, in case services are to be terminated by way of punishment reasonable opportunity of defence is to be given to the employee concerned which was not done and accordingly this application deserves to be allowed and the termination order dated 11.10.1988 is quashed and the applicant will be deemed to be in service. However, we make it clear that it will be open to the respondents to hold a departmental enquiry in respect of the charges against him. There will be no order as to costs.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman