(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

CIRCUIT SITTING AT NAGPUR

O.A. No. 710,711,713,771,772,773 and 774 of 1989.
T.A. No. 1990

DATE OF DECISION 9.8.1990

Shri H.L.Koche — Petitioner

Shri Anoop Mohta — Advocate for the Petitioner(s)

V/s.

Director General Ordnance Service & Others. — Respondent

Shri Ramesh Darda — Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G.Sreedharan Nair, Vice Chairman

The Hon'ble Mr. I.K.Rasgotra, Member (A)

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

2. To be referred to the Reporter or not ? yes

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 ? ✗

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :NEW BOMBAY BENCH
NAGPUR.

O.A.710,711,713,771,772,773 and 774 of 1989.

1. Hiralal Lalnath Koche ... Applicant in OA 710/89.
2. Parmeshwar Haribhai Mhaisgavali ... Applicant in OA 711/89.
3. Pradeep C.Kale ... Applicant in OA 713/89.
4. Devanand Mahadeorao Jambhokar ... Applicant in OA 771/89.
5. Prabhakar Gulabraoji Pantharam ... Applicant in OA 772/89.
6. Kishorilal Chimanlal Juneja ... Applicant in OA 773/89.
7. Vinod Mahadeorao Darange ... Applicant in OA 774/89.

- versus .

Director General Ordnance Service MGOs Branch
Army Headquarters, DHO P.O.New Delhi
and another ... Respondents.

P R E S E N T :

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman.
The Hon'ble Shri I.K.Rasgotra, Member(A).

For the applicants- Shri Ahoop Mohta, Advocate.
For the respondents- Shri Ramesh Darda, Advocate.
Date of hearing- 9.8.90.
Date of Order - 9.8.90.

JUDGMENT & ORDER :

G.Sreedharan Nair, Vice Chairman :

These applications were heard together and are being disposed of by a common order as the issue involved is the same.

2. These applicants were appointed on a temporary basis by the 2nd respondent during the year 1988. Their services were terminated during the probationary period on the ground of " suppression of facts and furnishing false information during recruitment".

3. The applicants assail the termination on the ground of want of affording an opportunity of being heard before the termination.

4. The respondents opposed these applications. It is contended that after the appointments, ~~were made without~~ when a detailed verification of the character and antecedents of the applicants was made, when it was detected that in the Attestation Forms factual information had been suppressed and false information had been furnished, and, hence, the services of these applicants were terminated. It is pointed out that the terms of the appointments warrant such termination.

5. No doubt, in the appointment letters issued to the applicants there is a clause that their services are liable to be terminated in case of any false declaration or suppression of material facts. However, when these applicants have been appointed after a regular selection and they have been duly performing their duties, before terminating theirservices on the ground of furnishing of false declaration and suppression of material facts, the applicants had to be given an opportunity of being heard. The failure to do so is violative of the well recognised principles of natural justice. It is to be noted that the orders of termination do cast a stigma on these applicants, as it is expressly stated therein that it is on account of suppression of facts and furnishing false information during the recruitment.

6. In the result, we quash the orders under which the services of these applicants were terminated and direct the respondents to reinstate them in service forthwith. However, it is made clear that this order shall not preclude the respondents from proceeding against the applicants in accordance with law , in case the respondents desire to terminate their services.

7. The application is disposed of as above.

( I.K.Rasgotra)
Member(A) 9/8/90

( G.Sreedharan Nair )
Vice Chairman.
9-8-1990

S.P.Singh/ 9.8.90.

NOTE

Subject:- Original Application No.710/89 and 5 other matters viz.i) O.A.711/89
ii) O.A.713/89
iii) O.A.772/89
iv) O.A.773/89
v) O.A.774/89

Judgment in these matters was delivered by Division Bench of this Tribunal on 9-8-90 wherein certain directions have been issued to respondents for implementation of the Judgment.

M.P.No.813/90 for stay of execution and operation of the said judgment has been filed by the Original respondents, praying therein that the execution may be stayed till final disposal of the Review Petition which is being filed by them. The Review Petition No.53 of 1990 has now been filed by the Ori. respondents. Reply to Review Petition is also filed by Original Applicant. This Review Petition will be circulated amongst the Members who were sitting on the Division Bench.

In the meantime reply has been filed by the Original Applicant to the M.P.No.813/90, of the respondents.

The Original Applicant has also filed his Contempt Petition being C.P.No.36 of 1990 as the Original Respondents, have not implemented judgment dated 9-8-90.

As both the Hon'ble Members who were sitting on the Division Bench which decided the case by their judgment dated 9-8-90 are from different benches and if the Review Petition is sent for circulation it would require much time to receive review judgment and the papers in this case may not be available to the Court for deciding M.P.No.813/90, It is suggested that we should send the Review Petition for

...2/-