

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:649/99, 650/99, 651/99 & 652/99.

Dated, this Monday the 18th day of October 1999.

Shri G.S.Solanki & 3 Ors Applicant.

Shri S.P.Saxena Advocate for the
Applicant.

VERSUS

Union of India & 20rs. Respondents.

Shri R.K.Shetty Advocate for the
Respondents.

CORAM: HON'BLE SHRI JUSTICE R.G.VAIDYANATHA, VICE CHAIRMAN.

HON'BLE SHRI D.S.BAWEJA, MEMBER(A)

- (i) To be referred to the Reporter or not?
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal?
- (iii) Library?

R.G.Vaidyanatha
(R.G.VAIDYANATHA)
VICE CHAIRMAN

abp

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Shri Ganesh B Solanki,
(Ex.Safaiwala, Station Headquarters
Kirkee), R/at:2/89, Ganesh Nagar,
Yerawada, Poona,
Pune.

...Applicant in OA-649/99.

Shri Raju Mangal Sajlani
(Ex-Safaiwala, Station Headquarters,
Kirkee), R/at. Aundhgaon E.S.I.C.
Hospital Servant Qrs. Bldg.No.D/17,
Pune - 411 027.

...Applicant in OA-650/99.

Santosh Chaganlal Khokar,
(Ex.Safaiwala, Station Headquarters,
Kirkee), R/at.Pune Chest Hospital,
Aundh, Pune-411 027.

...Applicant in OA-651/99.

Sanjay Ramprasad Sarsar,
(Ex.Safaiwala, Station Headquarters,
BEG TBI Follower
Line 58/13, Kirkee.

...Applicant in OA-652/99.

By Advocate Shri S.P.Saxena

v/s.

1. The Union of India,
Through the Secretary,
Ministry of Defence,
DHQ, P.O. New Delhi-110 011.
2. The Commander,
Headquarters,
Pune Sub Area, Pune - 411 001.
3. The Adm. Commandant
Station Headquarters,
Kirkee/Aundh, Pune - 411 003. ... Respondents in all
40As.

By Advocate Shri R.K.Shetty.

...2/-



(ORDER) (ORAL)

Per Shri R.G.Vaidyanatha, Vice Chairman.

Both counsels present and heard. In all these cases the four applicants have challenged the Impugned orders of termination dt. 12/7/99.

2. Respondents have filed reply. Since the point involved is short point, we are disposing of the OA at the Admission Stage.

3. All the applicants came to be appointed as Safaiwallas against regular posts but on probation. Now by the Impugned order, the administration has terminated the services of the applicants. Being aggrieved by these orders, the applicants have approached this Tribunal.

Respondents have justified the Impugned order in their reply.

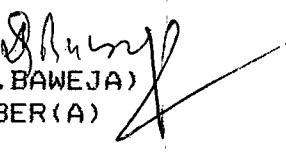
4. A perusal of the Impugned order shows that the services of the applicants have been terminated on the ground that the applicants are guilty of offence of being unfit for duty and hence the impugned order has been issued against each of them. It is also mentioned in the impugned order, that it is passed under Rule 11(viii) (a) of CCS CCA Rules 1965. It is not disputed that the CCS(CCA) rules apply in case disciplinary action is taken. Rule-11 describes minor and major penalties that may be imposed by the Disciplinary Authority. Under rule 11(viii)(a) major penalty of removal from service can be imposed after enquiry. Admittedly, no enquiry has been held as provided in CCS(CCA) rules. No charge sheet has been issued against applicants.



5. It may be true that the applicants were on probation. If it is a simiplicitor order of discharge under rules of probation or under temporary service rules, the matter would be different. But when CCS(CCA) Rules has prescribed penalty against Government employees who commit misconduct after issuing of charge sheet and holding enquiry, the impugned order is virtually order of removal from service which is a major penalty and such a penalty cannot be imposed unless a charge sheet is issued and enquiry is held by observing the rules and principles of natural justice. Therefore, the Impugned orders cannot be sustained and are liable to be quashed.

6. At this stage, the learned counsel for respondents submits that Administration may be given liberty to pass fresh orders as directed under the rules. We are not expressing any opinion at this point and it is always open to the administration to pass any order in accordance with law. Since the impugned orders are not in confirmity with law, the impugned order dated 12/7/99 are quashed.

7. In the result all the four applications are allowed of. The impugned orders dated 12/7/99 in each case are hereby set aside. The applicants shall be reinstated forthwith in service and shall be deemed to be in service from 12/7/99 and they will be entitled to all pay and allowances from 12/7/99. No orders as to costs.


(D.S. BAWEJA)
MEMBER(A)

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN