

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 353/2001

Date of Decision : 21.2.2002

Shri K.C.Tiwari Applicant

Shri J.M.Tanpure Advocate for the  
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri R.R.Shetty for Advocate for the  
Shri R.K.Shetty Respondents

CORAM :

The Hon'ble Shri Justice Ashok C.Agarwal, Chairman

The Hon'ble Smt.Shanta Shastry, 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 ✓

*Shanta F*  
(SMT.SHANTA SHASTRY)  
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.353/2001.

Thursday this the 21st day of February, 2002.

CORAM : Hon'ble Shri Justice Ashok C.Agarwal, Chairman

Hon'ble Smt.Shanta Shastry, Member (A)

Kamal Chandra Tiwari,  
Lecturer in Political Science,  
National Defence Academy,  
Khadakwasla,  
Pune.

...Applicant

By Advocate Shri J.M.Tanpure

vs.

1. Union of India  
through the Secretary,  
Ministry of Defence,  
South Block,  
New Delhi.
2. The Commandant,  
National Defence Academy,  
Khadakwasla,  
Pune.

...Respondents

By Advocate Shri R.R.Shetty  
for Shri R.K.Shetty

O R D E R (ORAL)

{Per : Smt.Shanta Shastry, Member (A)}

The applicant's services were terminated by a speaking order on 31.5.2001. It has been stated in the order that Staff Court of Inquiry was ordered by the NDA vide letter dated 12.1.2001 to record detailed evidence in respect of the

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allegations and counter allegations made by Dr.N.K.Kumar, HOD Political Science and Shri K.C.Tiwari, Adhoc Lecturer in Political Science against each other. The applicant was served with a Show Cause Notice giving details of the acts and omissions as brought out in the ibid Court of Inquiry. The applicant replied to the show cause notice vide letter dated 19.5.2001. After careful consideration of the reply given by the applicant, his services were terminated on the ground that the same has been found to be ~~not~~<sup>h</sup> grossly unsatisfactory and inefficient and therefore it was decided to dispense with his services w.e.f. 1.6.2001.

2. The applicant is aggrieved that the inquiry was not conducted properly. He was not given the Class Attendance Register when actually the applicant had conducted the classes.

3. The learned counsel for the respondents submits that the applicant was only an adhoc employee and his services could be terminated at any time for unsatisfactory performance and since his performance was not upto the mark, the respondents are justified in terminating the services of the applicant vide the aforesaid impugned order.

4. According to the applicant, it is not a simpliciter termination but it is a punitive one as is evident from the speaking order of 31.5.2001. The learned counsel for the respondents, however, argued that it was not necessary to conduct

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any detailed inquiry as his performance itself is not satisfactory, his services were liable to be terminated even otherwise. The learned counsel is relying on a judgement in the case of State of U.P. & Anr. vs. Ram Krishna & Anr. - 2000(2) A.I. S.L.J. 1, in this case, the important points that were made <sup>were</sup> - Temporary service is like a probationer and probationer can be terminated by an order simplicitor and as the applicant therein had not proved himself suitable, termination cannot be flawed.

5. It is correct that if an employee is only an adhoc employee, his services can be terminated at any time on account of unsatisfactory performance. But in the present case, we find that a show cause notice was given to the applicant and a Staff Court of Inquiry was conducted. This shows that there were extraneous considerations besides the actual performance of the applicant and this being so, certainly the present speaking order of 31.5.2001 cannot be said to be a simplicitor termination. There should have been a <sup>proper</sup> enquiry before deciding to terminate the services of the applicant. In the speaking order, reference is given to the show cause notice dated 11.5.2001 and further in para 3 it has been stated that his services have been found to be grossly unsatisfactory and inefficient. This casts a stigma without the matter being inquired into properly. In our considered view therefore the impugned order dated 31.5.2001 deserves to be quashed and set aside and we do so accordingly.

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It will be open to the respondents to conduct a proper enquiry as per rules. The applicant shall be reinstated with effect from the date of termination of his services with all consequential benefits. OA. is allowed. No costs.

6. Further, the applicant has also filed M.P.No.110/2002 for production of documents and another M.P.No.936/2001 to take the documents on record. In view of the disposal of the OA., M.Ps stands disposed of too.

*Shanta I*

(SMT. SHANTA SHASTRY)

MEMBER (A)

*Ashok C. Agarwal*  
(ASHOK C. AGARWAL)  
CHAIRMAN

mrj.

*21.2.2002*  
*7.3.2002*  
*14/3*

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Contempt Petition No.28/2002  
in  
Original Application No.353/2001

Dated this Thursday the 11th Day of April, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice Chairman  
Hon'ble Smt. Shanta Shastry, Member (Administrative)

Kamal Chandra Tiwari,  
Lecturer in Political Science,  
National Defence Academy,  
Khadakwasla,  
Pune.

.. Applicant.

(By Advocate Shri J.M. Tanpure)

Versus

Air Marshal Anilkumar Trikha,  
AVSM, VSM,  
The Commandant,  
National Defence Academy,  
Khadakwasla, Pune.

.. Contemnor.

( By Advocate Shri R.K. Shetty )

Order on Contempt Petition (Oral)  
{ Per : Justice Birendra Dikshit, Vice Chairman }

The applicant's services were terminated by an order dated 31.5.2001. This Tribunal by order dated 21.2.2002 held that the applicant shall be reinstated with effect from the date of termination of the services with all consequential benefits. No time was fixed to give effect to the order. This Contempt Petition has been filed on 21.3.2002. A reply has been filed today wherein in Para 1, it has been stated that in compliance of the order of this Tribunal the applicant has been reinstated vide order No.1200/KCT/CC/EDN dated 22.3.2002 and backwages as payable to the applicant amounting to

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Rs.1,17,579/- have been paid. The learned counsel for the applicant accepts that the order of this Tribunal have been complied with. As the respondents have complied with the order, no time was fixed, the Contempt Petition has become infructuous, it is dismissed. The notices are discharges and proceedings are dropped.

*Shanta*

( Smt. Shanta Shastry )  
Member (A)

*B. Dikshit*

( Birendra Dikshit )  
Vice Chairman.

H.

order dt: 11.4.2002  
despatched  
to Applicant, respondent (s)  
on 24.4.2002

*[Signature]*  
29/4.