

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAIA BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 52/2001

THURSDAY, THE 16TH DAY OF AUGUST, 2001

CORAM: SHRI JUSTICE ASHOK AGARWAL.  
SHRI G.C. SRIVASTAVA.

CHAIRMAN  
MEMBER (A)

Ashok Bhimaji Naik  
More Sadan, Behind Gandhi  
Petrol Pump, New Adgaon naka,  
Panchawati, Nashik-3.

Applicant

By Advocate Shri U.M. Joshi.

Versus.

1. DDMS (Maharashtra & Gujrat Area),  
Colaba, Mumbai-5.

2. The Commanding Officer,  
Military Hospital, Devlali,  
Nashik.

.. Respondents

By Advocate Shri R.K. Shetty.

O R D E R (ORAL)

Shri Justice Ashok Agarwal.

Chairman.

Applicant, who was an Ex-serviceman was employed as Chowkidar with effect from 01st January, 1997 vide order of appointment of 16th December, 1996. His appointment was on probation for a period of two years; the same was extended on two occasions for periods of six months each time. By a communication of 17th December, 1999, his probation was extended for the period upto 30th June, 2000. Aforesaid communication makes it clear that in case his performance/conduct is

not found to be satisfactory, his services will be liable to be terminated at any time during or at the end of probation. Aforesaid communication of 17th December, 1999 is found at Annexure A-7. By the impugned communication of 29th May, 2000 his services, which were on probation, has been terminated on the ground that his services are no longer required.


5 2. We have perused the pleadings and various notices, which have been issued to the applicant complaining of his unauthorised absence from duty. It is difficult on the face of the said notices to hold that the aforesaid order of termination is not an order of termination <sup>simpliciter</sup> but an order of dismissal from service and by way of punishment. If the services of the applicant are no longer required, may be because of his continued absence, the same cannot lead to a conclusion that the aforesaid order has been issued by way of penalty and without holding disciplinary enquiry. Services of the applicant were on probation. Applicant, in the present circumstances, has no right to the post. The moment his services are no longer required, respondents were within their power to dispense with the

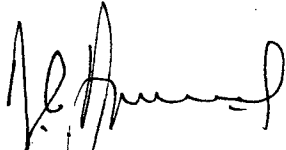
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same. Present OA, in the circumstances, we find it devoid of merit and the same is accordingly dismissed in limine.

  
(G.C. SRIVASTAVA)  
MEMBER (A)

  
(ASHOK AGARWAL)  
CHAIRMAN

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