

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 214/2001

Date of Decision : 23-04-2003

G.P.Mohite

Applicant

Shri S.P.Patankar

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri R.R.Shetty

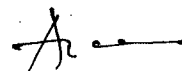
Advocate for the
Respondents

CORAM :

The Hon'ble Shri A.S.Sanghvi, Member (J)

The Hon'ble Shri Shankar Prasad, 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



(A.S. SANGHVI)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.214/2001

Dated this the 23rd day of April 2003.

CORAM : Hon'ble Shri A.S.Sanghvi, Member (J)

Hon'ble Shri Shankar Prasad, Member (A)

Ganesh Bappu Mohite,
R/at 295, Gaddi Adda,
Pote Chawl, Old Bazar,
Kirkee, Pune.

...Applicant

By Advocate Shri S.P.Patankar

vs.

1. Union of India
through the Secretary,
Govt. of India,
Ministry of Defence,
South Block DHQ,
New Delhi.
2. The Commandant,
Head Quarters,
National Defence Academy,
P.O. NDA, Khadakwasla,
Pune.
3. The Commandant,
512, Army Base Workshop,
Kirkee, Pune.

...Respondents

By Advocate Shri R.R.Shetty

O R D E R

{Per : Shri A.S.Sanghvi, Member (J)}

The applicant has approached this Tribunal against the order of termination of his services dated 4.2.2001 and has prayed that the order be quashed and set aside and he be reinstated in service with all consequential reliefs.

..2/-

2. The father of the applicant was serving as T.No.517 in the Army Base Workshop, Kirkee, Pune and had died in harness on 27.11.1988. The applicant was subsequently given appointment as Mali on compassionate ground vide order dated 8.11.2000. His services have, however, been terminated by order dated 4.2.2001 under the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. According to the applicant, he has not been given any reasons for the termination of his services and that the termination order is illegal and unjust. He has also not been given any show cause notice prior to the termination of his services.

3. The respondents, on the other hand, have contended inter alia that the applicant was appointed as Temporary Mali w.e.f. 21.11.2000 and the appointment letter clearly stipulated that the applicant would be on probation for a period of two years from the date of his appointment which may be extended by the Competent Authority for unsatisfactory performance during the period of probation and failure to complete the period of probation to the satisfaction of competent authority will render him liable to be discharged from the service. The applicant had at the time of appointment filled up the Attestation Form on 21.11.2000 which was sent to the Civil Authorities to carry out verification of his character and antecedents. The applicant had not revealed that he had undergone any prosecution and in the Column 'Whether he had been prosecuted or not', he had said 'No'.

..3/-

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However, the communication received from the Office of the Commissioner of Police, Pune City revealed that a case had been lodged in Khadaki Police Station under CR.No.7/95 under Section 324, 323,504, 34 of IPC and another case had been lodged in Vishrambag Police Station under CR No.131/94 under Section 381 of IPC. It was found that the applicant had concealed the information in the Attestation Form. The Attestation Form contained a clear warning to all persons who fill up the Attestation Form that furnishing of false information or suppression of any factual information in the Attestation Form will be a disqualification and is likely to render the candidate unfit for employment under the Government. Since it was found that the applicant had concealed the vital information regarding his prosecution, the authorities had thought it fit to disqualify him for the service and terminated his service. Consequently, the services of the applicant were terminated by a termination simpliciter order. They have maintained that the termination order is not at all illegal, unjust or unreasonable and have prayed that the OA. be dismissed with costs.

4. We have heard the learned counsel of both the parties and have carefully perused the record.

5. It is not in dispute that at the time of appointment the applicant had filled up the Attestation Form and in the Attestation Form he had stated that no criminal prosecution had ever been lodged against him. The respondents have come out with

a case that on verification it was found that a criminal case under Section 324, 323, 504, 34 of IPC was lodged against the applicant in the Khadaki Police Station and another criminal case was lodged in Vishrambag Police Station. However, Shri Shetty, learned counsel for the respondents has clarified that so far as the second case was concerned, there was some mistake and case under Section 381 I.P.C. was not against the applicant. He has, however, maintained that so far as the first case is concerned, the applicant was the accused in CR No.7/95 of Khadaki Police Station and the case had gone to the Criminal Court. Shri Patankar, learned counsel for the applicant submitted that the charges against the applicant were dropped as the case was compounded and the applicant was ultimately acquitted. He has, however, submitted that the case which was under Section 324, 323 etc. was lodged against him but according to him, this was not a case involving moral turpitude. According to him, since the criminal offence was compounded and the case had resulted in acquittal, the applicant had not considered it necessary to disclose this fact in the Attestation Form. According to him, this lapse on his part could not have been viewed seriously by the authority and his services could not have been terminated on such a flimsy ground.

6. On the other hand, Shri Shetty, learned counsel for the respondents has submitted that not disclosing the material fact that he had been prosecuted earlier, is not a light matter which can be ignored and the authorities had rightly taken note of seriousness of the same. Pointing to the note on the Attestation

Form, Shri Shetty has submitted that the persons filling up the form had been warned that the furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification and was likely to render the candidate unfit for employment under the Government. Referring to the Note 3 on the Attestation Form, he has further submitted that the note clearly mentions that if the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to notice at any time during the services of a person, his services would be liable to be terminated. According to him, inspite of this warning given on the face of the Attestation Form, the applicant had not disclosed the fact about his being prosecuted. Whether he was acquitted by the Court or ultimately the case was compromised is immaterial. Since the applicant had suppressed the fact, there was no other alternative for the authorities concerned but to remove him from service. He has also invited out attention to the decisions of the Tribunal in the case of Subhash Murlidhar Nanekar vs. Union of India in OA.No.772/98 decided on 29.10.1999 and also decision in the case of Dattatray Kaluram Dedge vs. Union of India in OA.NO.174/99 decided on 19.3.1999 where in similar cases the Tribunal has upheld the dismissal order passed by the competent authority. Discussing the question of acquittal of the applicant therein in OA.No.772/98 the Tribunal has observed as under :-

"The fact that the applicants have been acquitted in the Criminal case is not at all relevant. The question is one of giving false information/suppressing factual information from the knowledge of employer. Inspite of mentioning

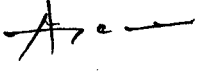
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Criminal case an official can be appointed depending upon the nature of service etc. Here, we are concerned with the appointment to a Defence Establishment. The administration may feel that an official who has given deliberate false information or deliberately suppressed factual information is not a person who is desirable to be continued in service, acquittal in the Criminal case notwithstanding. Therefore, in such a case, if the administration finds that it wants to terminate services of the applicant and when the order of termination is in terms of the contract of employment, this Tribunal can not interfere with such an order. Therefore, in our view, both the applicants have not made out any case for interfering with the impugned orders of termination."

7. These observations are clearly applicable in the facts of the instant case also. The services of the applicant have been brought to an end by the respondents with a simple order of termination and since the applicant was a temporary employee, he can not be heard to make a grievance about his termination. There were good reasons for the respondents to terminate his services. These reasons had nothing to do with any stigma that would attach to the applicant by the impugned order of termination. We, therefore, do not find any reason to interfere with the impugned order of the termination. In our opinion, the OA. deserves to be dismissed. In the conclusion, we, therefore, reject the OA. with no order as to costs.


(SHANKAR PRASAD)

MEMBER (A)


(A.S. SANGHVI)

MEMBER (J)

mrj.