

(3)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 243/92
~~Ex-Ax-Nox~~

198

DATE OF DECISION 11-8-1992D.G. Yadav

Petitioner

Mr. G S Walia

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. J G Sawant

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman

The Hon'ble Mr. M Y Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
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?

N.D

MGIPRRND-12 CAT/86-3-12-86-15,000

SIC
V.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PREScot ROAD; BOMBAY-1

O.A. No. 243/92

Dilipsinh Gulabsinh Yadav
Unarmed Police Constable
residing at NAROLI
U.T. of Dadra and Nagar Haveli
Via. Bhilad

..Applicant

V/s.

1. The Assistant Inspector
General of Police
Dadra and Nagar Haveli
PO. Silvassa
2. The Administratory of
U.T. of Dadra and Nagar Haveli
Cabo Raj Bhavan
Dona Paula, Goa
3. Union of India through
the Secretary
Ministry of Home Affairs
Central Secretariat
North Block
New Delhi

..Respondents

Coram: Hon. Shri Justice S.K. Dhaon, Vice Chairman
Hon. Shri M Y Priolkar, Member (A)

Appearance:

Mr. G S Walia
Counsel
for the Applicant

Mr. J G Sawant
Counsel
for the respondents

ORAL JUDGMENT:
(Per: S.K. Dhaon, Vice Chairman)

DATED: 11-8-1992

The Collector, Dadra and Nagar Haveli on
19th October 1987 appointed the applicant as Police
Constable on temporary basis. On 29th October 1990
the Assistant Inspector General of Police, Dadra and
Nagar Haveli, in the purported exercise of powers under

sub-rule (1) of Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965 terminated the service of the applicant. The order of termination is being impugned in the present application.

2. A reply has been filed on behalf of the respondents and Shri Sawant has been heard in opposition ~~of~~ this application.

3. It is specifically averred in the application that the Assistant Inspector General of Police was an officer subordinate in rank or lower in rank to the Collector. There is no averment in the reply that the Assistant Inspector General of Police was not ~~an officer subordinate~~ ⁱⁿ rank to the Collector nor is there any averment to the effect that the Collector and the Assistant Inspector General of Police were of equal rank. It, therefore, follows that the averment made by the applicant remains uncontroverted. We have, therefore, to assume for the present case that the impugned order has been passed by an officer ~~an~~ inferior in rank than the officer who passed the ~~order of~~ appointment. This infirmity is enough to vitiate the order.

(6)

4. The application succeeds and is allowed. The impugned order terminating the services of the applicant is quashed. The applicant shall be entitled to the consequential benefits.

5. There shall be no order as to costs.

(M Y Priolkar)
Member (A)

(S K Dháon)
Vice Chairman