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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

BOMBAY BENCH, CAMP AT NAGPUR.

Original Application No.280/92.

Shri A.V.Jagtap.

..... Applicant.

V/s.

Union of India & Ors.

..... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:-

Applicant by Ms.N.R.Sarin.

Respondents by Shri Ramesh Darda.

Oral Judgment:-

¶ Per Shri M.S.Deshpande, Vice-Chairman] Dt. 22.7.1993

Heard counsel for the parties. The applicant challenges the order of dismissal dt. 6.4.1991 passed by the Respondents during his probationary period. The applicant was employed by the Order dt. 11.8.1990 and while he was on probation his services came to be terminated by the order dt. 6.4.1991. The contention on behalf of the applicant is that the services of the applicant could not have been terminated on the ground and that they would no longer require his services/could not have been dispensed with without holding an inquiry as required by law and the order of dismissal is therefore illegal and arbitrary.

2. According to the Respondents, the termination was effected under the terms of the employment ~~which they~~ ^{as} ~~were to which~~ they had a right to terminate the services during the probationary period without notice and without assigning any reason. However, reference has been made to the non-disclosure of certain information regarding the pendency of a case under Sec.376 of the I.P.C. against the applicant and the revelation of that fact by the confidential communication received by the Respondents

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from the Dy. Commissioner of Police, Nagpur. Ms. Sarin, the learned counsel for the applicant, on the other hand, urged that it is apparent that the motive for dispensing with from the services was not that the overall performance of the applicant is bad, but non-disclosure of information and if that were to be made the basis for the order it would be open for the Tribunal to go behind the order and find out what was the real reason for the termination of the applicant.

3. Reliance was placed on behalf of the applicant on several authorities which require principles of natural justice to be followed. In A.K. Kraipak V/s. Union of India (A.I.R. 1970 S.C. 150). The requirement for the observance of the natural justice was emphasised though the authority involved was an administrative authority like a Selection Board. Our attention was particularly drawn to the observation in Nepal Singh V/s. State of U.P. (A.I.R. 1985 S.C. 84), but that was a case where a temporary government servant was terminated from service on the ground that his reputation for corruption makes him unsuitable for retention in service and it was observed that the reputation of corrupt behaviour must be based on something more than a mere corrupt allegation. It must be noted that there ~~an~~ evidence was also recorded, but before any findings could be rendered, the inquiry was dropped for want of jurisdiction and no attempt had been made thereafter for instituting proper inquiry by the appropriate authority.

4. In the present case the clause (c) of the order of appointment ^{clothes} ~~throws~~ the Respondents with the right to terminate the services of the employee during probationary period by either side without notice and without

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assigning any reason. It is true that reference had been made in the reply filed by the applicant that certain information regarding the applicant's involvement of the offence under Sec.376 of the I.P.C. had been suppressed, but that was not the basis for making the order. The order in question does not cast any stigma on the applicant and is an order of termination simplicitor. During the probationary period it is open to the authorities to take an overall view of the performance of the applicant and satisfy itself of the suitability of the applicant at the threshold before he gets ^{extended} promotion in the cadre, If that stage is over his further continuation would be undesirable and it is open for the authorities to put an end to the probationary period and terminate the employee.

5. Though it is open to the Tribunal to lift the veil and go behind the order, we find that the order was not based on any mis-conduct, but was an order of termination simplicitor. No interference with the order passed is called for.

6. The application is dismissed. There will be no order as to costs.


(M.Y. PRIOLKAR)
MEMBER(A)


(M.S. DESHPANDE)
VICE-CHAIRMAN

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