

(u)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

O.A.No. 638 of 1987.

Date of order 1.3.90.

Between:

P. Balram.

.. Applicant.

Vs.

Deputy Chief Executive, Administration,  
Nuclear Fuel Complex, Government of  
India, E.C.I.L. Post, Hyderabad and  
four others. Respondents.

Shri C.V. Rajeeva Reddy, Counsel for the Applicant.

Shri E. Madan Mohan Rao, Additional Standing Counsel  
for Respondents.

CORAM:

Hon'ble Shri J. Narasimhamurty, Member (Judicial)

Hon'ble Shri R. Balasubramanian, Member (Administrative)

Judgment of the Bench delivered by  
Hon'ble Shri J. Narasimhamurty,  
Member (Judicial).

--:-

This application is filed seeking a direction  
to the Respondents to consider his case for re-employ-  
ment in the post of Tradesman 'A' keeping in view  
the representations made by him from 1983 to 14-8-1987.

The averments in the application are as follows:

The applicant was appointed as Tradesman 'A'  
in the Nuclear Fuel Complex by an order dated 2-5-1981  
on a temporary basis with an initial pay of Rs. 260/- p.m.  
and he joined duty on 8-5-1981. According to the  
appointment order, there should be a notice of one month  
before termination and if the appointment continues more

than one year, one month notice or one month wages in lieu of notice. The applicant fell ill in the month of August, 1982 and he produced Medical Certificates to that effect. Dr. P. L. Chary and Dr. N. P. Ram Das gave certificates that the applicant was suffering from colitis. He abstained from duty from 21st August 1982 till 18th November, 1982 on medical grounds. While so he received a Telegram on 1st November, 1982 asking him to report to duty immediately. As he was unable to move, he could not go and join duty. He submitted representations about his illhealth which were not looked into.

3. As soon as he recovered from his illness, he approached the Plant Manager who directed him to contact the Personnel and Administrative Section for permission to rejoin duty. He did accordingly and the Administrative Section directed him to report to M. C. Dutta, Medical Officer, N. F. C., on 20th November, 1982 for Medical Examination. ~~xxx xxxxxx of xxx xxxxxxxxxx~~ Thereafter he was asked to wait for communication of the orders.

4. Because there was no communication from the respondents, he put in various representations dated 29-8-1983, 1-11-1983, 7-1-1985, 17-1-86 and 14-8-1987 but no response. On the representation dated 29-8-1983 he was informed by the Manager Personnel and Administration that his request of re-employment has not been accepted by the Competent Authority as a matter of policy. He was also informed that he is free to compete with others for vacancies suitable to his qualifications. Based on the above communication,

22

43

he had applied for the Post of Tradesman 'A' which was advertised on 18--12--1983. The applicant also stated in his application that he had worked in N.F.C., as Tradesman 'A' Electrician but his case was not considered.

5. The applicant states that he discharged his duties satisfactorily for one year and he also earned one increment. He also states that in similar circumstances such of those employees who abstained from service for more than 86 days, their increments were stopped whereas his services have been terminated. He states that this amounts to discrimination and offends Article 14 of the Constitution of India. He was not given a show cause notice and no opportunity was given to him to defend his case and it is against the principles of natural justice. The applicant has not received any written order terminating his services. Hence this Application.

6. The respondents filed their counter contending as follows:

The application is hit by Secs. 20 and 21 of the Administrative Tribunals Act, 1985 and thus liable to be dismissed on this ground alone. The Applicant has not made out any ground for granting of any relief

7. The applicant was appointed as Tradesman 'A' (Industrial Temporary Workman - technical) in Nuclear Fuel Complex with effect from 8-5-1981(FN). In the offer of appointment it is clearly specified that "your appointment is temporary for a period not exceeding one year from the date of appointment in the establishment and in connection with construction/erection/setting of Stainless Steel Seamless Tube Plants/Ball Bearing Tube Plant. The offer further provided that during

(u)

the first year of your temporary employment, your services are liable to be terminated at any time without notice. If however, your temporary employment is continued beyond one year in the interest of work, you will be entitled to one month's notice of termination or one month's wages in lieu thereof at the time of termination of employment." The applicant was not regular and had absented from duty for 105 days in NFC without prior permission/intimation. Apart from that, the applicant remained absent from 20-8-1982 and reported for duty on 18--11--1982. When the applicant reported for duty on 18--11--1982, he was asked to report to Senior Medical Officer, NFC whether the applicant was actually suffering from Enteric fever or Colitis as mentioned in the Medical Certificate produced by the applicant. The Senior Medical Officer-in-charge after going through the history of illness in the light of the Medical certificate produced by the applicant held that the applicant had not suffered from enteric fever or Colitis in the recent past. The respondents deny that the applicant was asked to wait for communication from the office regarding his joining for duty. The applicant in fact, thereafter did not report for duty. In the meantime as the services of the applicant were no longer required, his services were terminated in terms of para 1(a) of the offer of appointment and the termination order was sent to the Applicant's residential address by Registered Post with Acknowledgment due but the same was returned by the Postal Authorities with the remarks "Continuously 7 days absent returned to Sender". The orders of termination were notified in the Gazette of India. The applicant has tried to mislead that he has not received any written order terminating his services. In fact, the

(u)

applicant had & refused to accept the orders of termination. The applicant has not availed the alternate remedies available to him. He could have raised the dispute under Section 2A of the I.O. Act. Since he has not availed the remedy available to him on this ground itself the application is liable to be dismissed.

8. The applicant's services were terminated during 1983 but he has filed this case during 1987. Hence on the laches alone the application is liable to be dismissed in limine.

9. The applicant had sent a stray application for the post of Tradesman 'A' which was sent for scrutiny along with other applications received from candidates sponsored by Employment Exchange. Though the applicant was informed that he could apply against any vacancy which may be notified by NFC, as he has not fulfilled the norms prescribed, his application was rejected.

10. We have heard Shri C.V. Rajeeva Reddy, counsel for the Applicant and Shri E. Madan Mohan Rao, Additional Standing Counsel for respondents.

11. In this case, the appointment of the applicant under the Respondents is admitted. But it is stated that from 31-3-82 to 12-8-1982 (broken periods) he was absent for 105 days/and also he was absent from 20-8-1982 and reported for duty on 18-11--1982 on medical grounds. When he approached the respondents for permission to join duty, he was sent to the Medical Officer for examination whether he suffered from illness according to the Medical Certificates produced by the applicant. The Medical Officer reported that he has not been suffered

(ub)

from any illness during the recent past as per the Medical reports produced by him. The Medical Officer of the Respondents' Organisation has not agreed with the opinion of the Medical Officers from whom the applicant obtained the Medical Certificates. From that time, he has not approached the respondents. Subsequently, the respondents terminated his services. He sent representations to the respondents but were not considered by the respondents. That the termination order was also communicated to the applicant through registered post which he has not received and order of termination was also notified in the Government of India Gazette. When the respondents sent the order of termination under ~~xxxxxx~~ Certificate of Posting, the applicant refused the same. It is evident from the record. He also sent his application for selection along with others but it was not entertained as he ~~he~~ has not fulfilled the norms prescribed for the said post.

The conduct of the applicant clearly shows that he is irregular in attending to his duties and he produced false medical certificates ~~xxxx~~ for his absence. The Medical Officer who examined him has clearly states that ~~xx~~ "the applicant had not suffered enteric fever or Colitis in the recent past". This shows the nature of the applicant and the evading temperament for duty. Moreover, he figured as an applicant for some other recruitment. So it clearly shows that he has given up his claim for the post for which he was recruited and tried for another post

To:

1. The Deputy Chief Executive, Administration, Nuclear fuel complex, Government of India, E.C.I.L., post, Hyd-500 762.
2. The Deputy Chief Executive, Technical, Nuclear Fuel complex, Government of India, E.C.I.L., post, Hyderabad-(500 762)
3. The Manager, personnel and Administration department, Nuclear fuel complex, Government of India, E.C.I.L. post Hyderabad-500 762.
4. The Manager, Maintenance department, H.T.P.B.B.T.P., Nuclear Fuel complex, Government of India E.C.I.L. post, Hyderabad-500 762.
5. The Engineer-in-chief, M.T.P., B.B.T.P., Nuclear Fuel Complex, Government of India, E.C.I.L., post Hyd-500 762.
6. One copy to Mr.C.V.Rajeeva Reddy, Advocate, 6-3-347/11, Dwarakapuri colony, Panjagutta, Hyderabad-482.
7. One copy to Mr.E.Madan Mohan Rao, Addl.CGSC,CAT, Hyderabad.
8. One spare copy.

kj.

5/10/62

9 No. 24/


(67)


under the Respondents' Organisation by sending an application. Moreover the prayer in his application reads as follows:

"to direct the respondents to consider the case of the applicant for re-employment in the post of Tradesman 'A' keeping in view the representations given by him from 1983 to 14-8-1987 and pass such other order or orders in the interests of justice."

His prayer is only for re-employment. He knows that he has no legal claim or right for the post in which he worked. Moreover the order of termination is in the year, 1983. He has not moved either the Industrial Tribunal or this Tribunal at the appropriate time. He has filed this application in the application in the year 1987 at a belated stage. The claim for reappointment cannot be entertained as of right simply because he worked for sometime under the Respondents' Organisation.

In the circumstances, we hold that the applicant has not made out his case for re-employment. The application fails and it is accordingly dismissed. No order as to costs.

  
(J. NARASIMHAMURTHY)  
Member (Judicial)

  
(R. BALASUBRAMANIAN) ~  
Member (Administrative)

Date: 1. 3. 90.

SSS.

  
DEPUTY REGISTRAR (J) -

2/3