

29

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.116/89.

Date of Judgment 10-6-91

S.Gurucharan Singh .. Applicant

Vs.

The General Manager,
Ordinance Factory Project,
Yeddu Mailaram,
Medak District. .. Respondent

Counsel for the Applicant : Shri Y.Suryanarayana

Counsel for the Respondent : Shri N.Bhaskara Rao,
Addl. CGSC

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

{ Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) }

This application has been filed by Shri S.Gurucharan Singh under section 19 of the Administrative Tribunals Act, 1985 against the General Manager, Ordinance Factory Project, Yeddu Mailaram, Medak District.

2. The applicant joined the respondent organisation on 21.3.88 and has been working as a Crane Driver from that date. He was put on probation for a period of two years which could be extended at the discretion of General Manager. On 26.5.88, the applicant received a communication from the respondent stating that his services are no longer required and that his services are terminated with effect from the afternoon of 26.5

...

in accordance with the terms and conditions of the letter of appointment. The applicant alleges that this action of the respondent is arbitrary and capricious.

3. He has prayed that the order No.07/056/LB dated 26.5.88 be set aside and that he be reinstated in service with all consequential benefits including the backwages.

4. The application is opposed by the respondent. It is pointed out by the respondent that on 21.5.88 the applicant indulged in undesirable activities detrimental to the discipline in an organisation connected with defence production. It is alleged that he gathered workmen of his section in front of the office and behaved in an indisciplined manner. He also refused to accept official communications and caused dislocation of office work. The respondent contends that the applicant was ~~fully~~ ^{only} on probation and that his services having been found to be unsatisfactory he was terminated.

5. We have examined the case and heard the learned counsel for the applicant and the respondent. The short question is whether the termination is legal or not. The applicant had been in the service of the respondent for just two months. The period of probation is two years during which time the quality of his performance was to be watched and there is ^{also} provision ~~even~~ for extending the probation if the performance of the applicant is not upto the mark. The purpose of the probation is to watch the performance of the officials and ^{apply} ~~introduce~~ corrective measures, if need be by extending the probation. If the

22

.....3

services are to be terminated during the period of probation for undesirable activities involving discipline, the correct procedure for the respondent would be to initiate an enquiry and then take further action in the light of the findings. The order of termination does not mention anything about the misconduct of the official but the real reason for the termination is the misconduct of the official as admitted by the respondent in the counter affidavit. It had been observed by the Hon'ble Supreme Court in the case of Anoop Jaiswal Vs. Govt. of India & another (AIR 1984 SC 636, - Paras 13 and 14) that if the court reaches the conclusion that misconduct was the cause of the order of termination and that but for it the probation would have continued then it is inevitable that the order of discharge should fall to the ground as the applicant had not been afforded a reasonable opportunity to defend himself as provided in Art.311(2) of the Constitution. The impugned order amounts to the termination of services by way of punishment and an enquiry should have been held in accordance with the Constitutional provision. That having not been done the impugned order is liable to be struck down.

In another case also (AIR 1984 SC 1110) the Hon'ble Supreme Court had held that a simple termination for an alleged misconduct was not sustainable and in the absence of proper enquiry as provided in the regulations.

12

6. In view of the above, we set aside the order of termination communicated on 26.5.88. The applicant

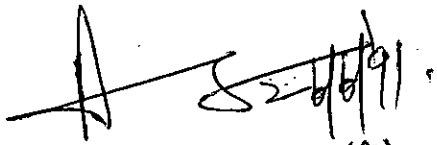
is entitled to all the consequential benefits including the backwages. At the same time the respondents are at liberty to initiate an enquiry into the misconduct and take further action in the light of the findings. There is no order as to costs.

MS

(J.Narasimha Murthy)
Member(Judl).

R. Balasubramanian
(R.Balasubramanian)
Member(Admn).

Dated 10th June 91


Deputy Registrar(A)

To

1. The General Manager, Ordinance Factory Project,
Yeddumailaram, Medak Dist.
2. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
3. One copy to Mr.N. Bhaskara Rao, Addl.CGSC.
4. One copy to Mon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.

contd. —

442/100/91

RUS
25/6/91

(5)

percep

TYPED BY

COMPARED BY

CHECKED BY W

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V.C.

AND

THE HON'BLE MR. D. SURYA RAO: M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 10 6-1991.

~~ORDER~~ / JUDGMENT.

M.A./R.A./C.A. No.

in

T.A. No.

W.P. No.

O.A. No. 116/89

Admitted and Interim directions
issued.

Allowed. —————

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

Central Administrative Tribunal
DESPATCH
17 JUL 1991
HYDERABAD BENCH.