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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 307 of 1991

Date of Decision: 6th Sept 1991.

~~Ex. No.~~

Mr. Bhattu Jaya Singh

Petitioner.

Mr. V. Rajagopala Reddy

Advocate for the
petitioner (s)

Versus

The Head, Personnel & General Admn. Division, Respondent.
Dept. of Space, SHAR Centre, Sriharikota and another

Mr. N. Bhaskar Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J. Narasimha Murthy, Member (Judl.)

THE HON'BLE MR. R. Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

[Signature]
HJNM
M(J)

[Signature]
HRBS
M(A)

CORAM:

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

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

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J.NARASIMHA MURTHY, MEMBER (JUDL.)

This is a petition filed by the petitioner for a relief to declare the proceedings No.SCF/PGA/ESTT:B-13580-6/1478, dated 16.1.1991 passed by the 1st respondent, as illegal and void and to set-aside the same and to direct the 1st respondent to reinstate the applicant in service and to pay all the arrears of salary etc. The facts of the case are briefly as follows:-

The applicant took B.Sc. degree from Osmanian University in 1979 and he belongs to Scheduled Tribe community. He joined Nagarjuna Gramena Bank, Pinapaka Branch, Khammam District in 1980 and resigned his job in the Bank on 13.3.1981. Thereafter, he was selected in 1984 as Clerk Grade-II in Singareni Collieries Company Limited, Manuguru Division. While working as such in Singareni Collieries Company Ltd.,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.307 of 1991

DATE OF JUDGMENT: 6th SEPTEMBER, '91

BETWEEN:

Mr. Bhattu Jaya Singh .. Applicant

AND

1. The Head,
Personnel & General Admn. Division,
Dept. of Space,
Indian Space Research Organisation,
SHAR Centre,
Sriharikota,
Nellore District-524124.

2. The Director,
Dept. of Space,
Indian Space Research Organisation,
SHAR Centre,
Sriharikota,
Nellore District. ..

Respondents

COUNSEL FOR THE APPLICANT: Mr. V.Rajagopal Reddy

COUNSEL FOR THE RESPONDENTS: Mr. N.Bhaskar Rao, Addl.CGSC

3. The respondents filed a counter with the following contentions:-

The applicant had applied for the post of Canteen Supervisor reserved for ST community and based on the information furnished by him in his application, he was ~~XXXXXXXX~~ called for interview, selected and offered the post in July 1989. He joined duty on 24.8.1989 in the SHAR Centre. It later came to the knowledge of the Department, that the applicant was working under the Nagarjuna Grameena Bank, Pinapaka Branch, Khammam from 29.10.1979 and he was absconding from duty from that Bank since 14.3.1981 taking away along with him the Bank's cash to the tune of Rs.11,739=52 which was then under his custody, apart from postal stamps worth Rs.36/-. In this connection, a criminal case was filed by the Police under Section 409 IPC in the Court of the Judicial First Class Magistrate, Kothagudem. This information was suppressed by the applicant in the application for employment submitted by him in SHAR Centre. He had also suppressed this information in the attestation form and the special security questionnaire submitted by him at the time of reporting for duty in SHAR Centre inspite of the warnings against suppression contained in those forms. It was further learnt that the applicant did not resign his employment with that Bank before he took up employment

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he applied for the post of Canteen Supervisor in SHAR Centre, Department of Space, Srihari kota on 27.6.1989 in the vacancy earmarked for Scheduled Tribe candidate. He was selected after interview for the said post, by an order dated 25.7.1989 and posted to Canteen on 25.8.89. Since then, he has been working there. By an order dated 5.9.1989, the scale of pay has been fixed at Rs.1400-2300 and he was given one increment in August 1990. The order of appointment dated 25.7.1989 has been returned to the concerned officer in the establishment section at the time of joining duty.

2. While so, the applicant received an order No.SCF/PGA/ESTT:II:B-13580-6/1478, dated 16.1.1991 from the 1st respondent stating that the applicant continued to be an employee of the Nagarjuna Grameena Bank and he joined SHAR Centre without the knowledge of the said Bank and that disciplinary proceedings initiated upon the charge sheet dated 1.10.1990 were pending and that suppressing the said information, he joined SHAR Centre and as the same was violative of the offer of appointment dated 25.7.1989, his services were terminated in SHAR Centre with immediate effect. Hence, the applicant filed this application for the above said relief.



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to vacate the same within one month thereafter. He did not vacate the quarters so far and is continuing in the same as per the interim orders of this Hon'ble Tribunal. He is liable to pay damages @ Rs.594/- p.m. as per the rules. The representation submitted by the applicant against the orders of termination was considered by the competent authority and a reply was sent to the applicant on 25.3.1991. Since, the applicant was the only candidate who had applied for the post of Canteen Supervisor and in view of the difficulty in getting a Scheduled Tribe candidate strictly fulfilling the norms, the applicant was selected for the post duly relaxing the requirement of experience. He was offered the post vide offer of appointment dated 21/25.7.1989 and he reported for duties in SHAR Centre w.e.f. 24.8.1989. As per the application for the post of Canteen Supervisor submitted by the applicant, he was possessing five years service in the Singarena Collieries Company Limited, Khammam. He did not mention about the nature of experience. The applicant was selected for the post duly relaxing the requirement of experience.

4. Later, the respondents came to know that the applicant was employed in the Nagarjuna Gramina Bank as Clerk-cum-Cashier from 29.10.1979, and he was absconding from the Bank taking away with him an amount of Rs.11,739=52 and postage stamps worth Rs.36/- and a criminal case had

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in another organisation viz., M/s Singareni Collieries Company Limited, Manuguru where he had worked from 26.2.1984 to 18.8.1989 and from where he joined SHAR Centre on 24.8.1989. The applicant continued to be on the rolls of the Nagarjuna Gramena Bank and therefore he was not abinitio eligible to join SHAR Centre. The services of the applicant in SHAR Centre were purely temporary and on provisional basis which were terminated w.e.f. 16.1.1991 duly invoking the provisions of para 1(e) of the offer of appointment issued to him as he was continuing on the rolls of the Bank and thus he was ineligible to join duty in the Government. Under para 1(e) of the offer of appointment, the services of an employee can be terminated without assigning any reason therefor if the Government is satisfied that he was ineligible for recruitment to the service/post in the first instance itself. The applicant was the juniormost employee in the category of Canteen Supervisor and his case has no comparison with the case of any other employee in that category and thus ^{the termination is} not violative of Articles 14 and 16 of the Constitution of India. Since the services of the applicant were terminated duly invoking the provisions thereto contained in the offer of appointment and as it was not punitive, the provisions of Article 311 of the Constitution are not applicable in this case. The applicant was in occupation of quarters at the time of termination of his services and he was required

Branch, Khammam District from 29.10.1979 and he resigned his job from the Bank on 13.3.1981. Thereafter, he was selected as Clerk Grade-II in the Singareni Collieries Co. Limited in 1984. While working in Singareni Collieries Company Limited, he applied for the post of Canteen Supervisor in SHAR Centre, Sriharikota. He was selected to the Post of Canteen Supervisor in SHAR Centre and appointed to that post on 25.8.1989. Since then, he has been working in that post in SHAR Centre. He was also given increment in August 1990. These are all the admitted facts.

7. All of a sudden, on 16.1.1991, the applicant received termination order from the 1st respondent. It is in the counter alleged that the applicant has not resigned his post in Nagarjuna Grammeena Bank and that he took away cash of ~~Rs.~~ Rs.11,739=52 and postal stamps worth Rs.36/- from the Bank and an investigation is going on and a case ~~was registered~~ was registered under Section 409 IPC against him. This information, the 1st respondent did not give in the order terminating the services of the applicant. Where could the 1st respondent get this information and what is the source of information, the respondents have to ascertain from the applicant by serving a notice atleast. They did not do so. The applicant worked in the Nagarjuna Grammeena Bank in 1980 and he left the Bank and joined the Singareni Collieries after he was selected for the post of Clerk Grade-II. Thereafter, the applicant

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been registered against him in this connection. The applicant was subsequently chargesheeted by the Bank for the misconduct in October 1990 but this fact was also not informed by the applicant to the SHAR Centre. In the attestation form and special security questionnaire filled in and submitted by the applicant at the time of joining duty in SHAR Centre, he had mentioned only about his employment with the Singareni Collieries Company Limited and he did not mention about his employment with the Nagarjuna Grammeena Bank, Pinapaka Branch. In the attestation form and in the Special Security Questionnaire, all the information relating to his previous employment with the Nagarjuna Grammeena Bank as well as the details of his prosecution etc., were suppressed. It is disqualification under the rules and the appointment of the applicant was purely temporary and his services can be terminated at any time during the period of probation. There are no merits in the application and the application is liable to be dismissed.

5. Shri V.Rajagopala Reddy, learned counsel for the applicant and Shri N.Bhaskar Rao, ~~As~~ learned Addl. Standing Counsel for the Respondents/Central Government, argued the matter.

6. It is a fact that the applicant was initially working in the Nagarjuna Grammeena Bank Limited, Pinapaka

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the respondents get the information. The duty ^{ows} goes on the respondents to call for explanation of the applicant for the misdeeds or commissions or omissions alleged to have done by the applicant while applying to the post of Canteen Supervisor in SHAR Centre. The respondents did not call for any explanation from the applicant. They simply removed the ~~XXXXXXXXXX~~ applicant from service stating that he is a probationer and that he can be removed at any time. Here the applicant was selected to the post on regular basis by a competent selecting authority and he was given one increment also in the Department. So, though the applicant is a probationer or is a junior employee, his services cannot be terminated without serving any notice and without any enquiry. It is clearly violative of Article 311 of the Constitution of India. Even under the rules, the respondents have to follow certain procedure also before removing the applicant from service but they have not observed the same in this case. Removing an employee without enquiry is bad in law. The respondents did not obtain any authenticated information and it is only after they came to know ^{of} that information and on that information they removed the applicant from service which is quite arbitrary and violative of principles of natural justice and also

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applied for the post of Canteen Supervisor in SHAR Centre and joined the job w.e.f. 25.8.1989 in SHAR Centre. From 1980 to 1990 there was no whisper about the alleged misappropriation of the amounts when he was working in the Nagarjuna Grameena Bank. The applicant was selected in 1984 as Clerk Grade-II in Singareni Collieries i.e., after four years he resigned from the Nagarjuna Grameena Bank. If the applicant is in the rolls of the Bank, did the Bank gave any notice to the applicant for his unauthorised absence from the Bank? If the applicant took away Rs.11,739=52 from the Bank, what are the steps the Bank had taken? Did the Bank gave any notice to the applicant or conducted any enquiry and what happened to the criminal case registered against the applicant? There is no evidence. The applicant left the Nagarjuna Grameena Bank long back and he worked in the Singareni Collieries from 1984 onwards and he also got increment and after a long lapse of time the respondents say that the name of the applicant is continuing in the Nagarjuna Grameena Bank's rolls. If so, what steps the Bank took for the absence of the applicant from the Bank all these years? The applicant categorically stated that he submitted his resignation and joined the Singareni Collieries and the services rendered by the applicant in the Singareni Collieries have not denied by the respondents. After a long lapse of time, where could

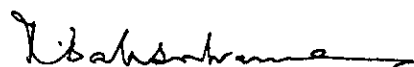
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violative of Article 311 of the Constitution of India. So, in any view of the matter, there are no merits in the order of termination passed by the 1st respondent and the orders of removal are liable to be set-aside. We accordingly set-aside the order No. SCF/PGA/ESTT:B-^{7/-}13580-6/14781 dated 16.1.1991 passed by the 1st respondent and the applicant shall be reinstated to duty with all back wages and consequential benefits. The respondents are directed to implement this order within a period of three months from the date of receipt of this order.

8. The application is accordingly allowed. There is no order as to costs.



(J. NARASIMHA MURTHY)
Member(Judl.)



(R. BALASUBRAMANIAN)
Member(Admn.)

Dated: 6/9 September, 1991.

Registrar

To

1. The Head, Personnel & General Admn. Division,
Dept. of Space, Indian Space Research Organisation,
SHAR Centre, Srinarikota, Nellore District-524124.
2. The Director, Dept. of Space, Indian Space Research Organisation,
SHAR Centre, Srinarikota, Nellore Dist.
3. One copy to Mr. V. Rajagopal Reddy, Advocate,
No. 1 Law Chambers, High Court Buildings, Hyderabad.
4. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd. Bench
5. One copy to Hon'ble Mr. J. Narasimha Murthy : Member(J) CAT. Hyd.
6. Copy to All Benches and Reporters as per standard list of CAT. Hyd
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

COMPARED BY
APPROVED BY

THE HON'BLE MR. V.C.
AND
THE HON'BLE MR. M(J)
AND
THE HON'BLE MR. J. NARASIMHA MURTY: M(J)
AND
THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 6-9-1991

ORDER/ JUDGMENT

Central Administrative Tribunal
DESPATCH
17 SEP 1991
HYDERABAD BENCH.

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

D.A. No. 307/91

T.A.No. (W.P.No.)

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.

11/9/91