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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. 826/92.

Dt. of Decision : 20-9-95.

T. Narsimulu

.. Applicant.

Vs

The General Manager,
Ordnance Factory Project,
Ministry of Defence,
Government of India,
Eddumailaram, Dist. Medak.

.. Respondents.

Counsel for the Applicant : Mr. Y. Suryanarayana

Counsel for the Respondents : Mr. N.V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

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O.A.No.826/92

JUDGEMENT

(As per the Hon'ble Sri Justice V.N. Rao, Vice Chairman)

The applicant joined service as Fitter (Genl.) on 15-6-87 in the Ordnance Factory, Yedumailaram (for short respondent organisation). Show cause notice dt.10-12-90 was issued to the applicant for his unauthorised absence from 31-7-90. It is stated that it was served upon the applicant on 21-1-91 and on the same day he submitted his explanation. The applicant was removed from service by order dt.18-2-91. The same is challenged in this O.A.

2. The probation of the applicant was extended from time to time. It was not declared by the date of his removal that he successfully completed his probation. It is stated in the impugned order that the said order was passed by invoking Clause P.2 of the order of his appointment for his habitual irregular attendance.

3. The main contention for the applicant is that when habitual irregular attendance is referred to as misconduct, the applicant cannot be removed from service without conducting an enquiry. It is further stated that the impugned order is not an order simpliciter and hence the same has to be held as void.

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4. It may be noted that the applicant is a civilian in the Defence Organisation and hence he is not entitled to the protection of Art.311, and Art. 310 is applicable to him. As such it is open to the authorities to remove the applicant from his service for justifiable reasons.

5. It is a case where the applicant was only a probationer. In view of the irregular attendance of a probationer, it can be held that he is not suitable to work as an employee and on that basis the probationer can be discharged. Or it is open to the management to conduct an enquiry and if the charge is held as proved, appropriate order can be passed. It is one of the choice for the management either to follow the former course or latter course. When the respondents herein had terminated the services of the applicant who was a probationer by holding that it is not desirable to continue him in view of the habitual irregular attendance, there is no infirmity in the same.

6. But as it is a case where the pay for one month in lieu of one month notice as contemplated under Rule 5 of the CCS (T.S.Rules), 1965, ^{is not paid.} it is just and proper to direct the respondents to pay one month pay to him.

7. It may be further noted that the applicant ~~is not of~~ 26 years only by the date of the O.A. which was filed about 3 years back. It is submitted for the applicant that in view of his family difficulties, it had become

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necessary for him to absent from duty and now as all those problems are settled he is in a position to attend to the duty. It is not the case of the respondents that the applicant is either inefficient or is not capable of discharging the duties. It is a case where the Fitters (Genl.) are being appointed on the basis of the selection from among the candidates sponsored by the Employment Exchange. As it is a case where the applicant was already sponsored by the Employment Exchange, as he was already selected, and as he could not attend to the duty in view of his family problems, we feel it proper to give a direction to the respondent to appoint him as Fitter (Genl.) as a fresh candidate as and when there is work for the post of Fitter (Genl.) for which it is necessary to resort to recruitment to the said post.

8. It may be noted that it is stated for the respondent that though at present there is a vacancy in the post of Fitter (G), it is not necessary to fill the same as there is for no need filling up the post at present.

9. In the result, the O.A. is ordered as under:-

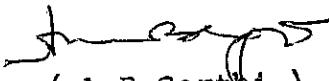
The impugned order dt.18-2-91 whereby the applicant was removed from service is confirmed. The respondent has to pay one month pay to the applicant (the pay for this purpose is the total emoluments to be calculated on the basis of the pay of the applicant by the date of his removal). As and when it is necessary to appoint a Fitter (G) in the offer has to be made

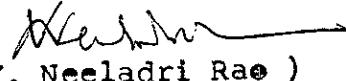
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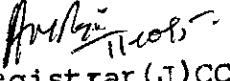
to the applicant for the said post and such appointment he has to be taken as a fresher without any claim for the benefit of the earlier service and he has again to be put on probation.

10. The O.A. is ordered accordingly. No costs. //


(A.B.Gorthi)
Member (A)


(V. Neeladri Rao)
Vice Chairman

Dt. 20-9-1995
Open Court dictation.


Deputy Registrar (J) CC.

To kmv

1. The General Manager, Ordnance Factory Project, Ministry of Defence, Govt. of India, Eddumailaram, Medak Dist.
2. One copy to Mr. Y. Suryanarayana, Advocate, CAT. Hyd.
3. One copy to Mr. N. V. Ramana, Addl. CGSC. CAT. Hyd.
4. One copy to Library, CAT. Hyd.
5. One spare copy.

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADIRAO
VICE CHAIRMAN

AND
A.B.Gorthy
THE HON'BLE MR.R.RANGARAJAN :M(A)

DATED: 20-9-1995

ORDER/JUDGMENT

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

in
O.A.No. 826/92

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

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

No Spare Copy

p.v.m.

