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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: : HYDERABAD BENCH

AT HYDERABAD

OA.609/92 Date of decision : 7th Aug, 92

M. Sivanandam : Applicant

versus

Additional Collector of Customs
Customs House, Port area
Visakhapatnam- 530035 : Respondent

Counsel for the Applicant : M. Rama Rao, Advocate

Counsel for the Respondent : M. Jagan Mohan Reddy
Standing Counsel for
Central Government

CORAM :

HON. Mr. R. BALASUBRAMANIAN, MEMBER (ADMN.)

HON. Mr. C.J. ROY, MEMBER(JUDL.)

(Order of the Division Bench delivered by
Hon. Mr. R. Balasubramanian, Member(Admn.)

This application is filed by Shri M. Sivanandam under Section 19 of AT Act, against the Additional Collector of Customs, Visakhapatnam. The prayer is to quash the proceedings dated 14-7-1992 by which the services of the applicant were terminated under proviso to Sub Rule 1 of Rule 5 of Central Civil Services (Temporary Services) Rules, 1965. The applicants had not made any representation against this and approached this Tribunal.

2. The respondents have filed a counter affidavit and opposed the application. It is alleged in the counter that the Employment Officer had not received the requisition from the respondents and he had not sponsored any candidate against the requisition. It is clear from this counter that the respon-

dents had considered that the applicant had secured the job by fraudulant means and terminated his services.

3. We have examined the case and heard rival sides. Sri Jagan Mohan Reddy rised a preliminary objection that the applicants had not represented against the termination order. As can be seen from the subsequent paragraph, the action of the respondents is ex-facie illegal and against an ex-facie illegal order no representation lies.

4. This Bench had repeatedly held that recourse to Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 should not be taken as an alternative or a camouflage to regular disciplinary action when they suspect some misconduct on the part of the employee. Therefore, we quash the order of termination dated 14-7-1992 as illegal.

5. At the same time, the means by which the applicant secured employment cannot go uninvestigated. We give the liberty to the respondents to initiate suitable disciplinary action in accordance with Rules, and take such action as they deem fit in the light of the proceedings.

6. Orders in so far as quashing of the termination order is concerned, shall be implemented within two months from the date of receipt of the orders. The applicant is entitled to all consequential benefits including backwages since we hold the termination as illegal.

7. No order as to costs.

(R. Balasubramanian)
Member(Admn.)

(C.J. Roy)
Member(Judl.)

Dated : 7th Aug, 92
Dictated in the Open Court

Deputy Registrar(J)

To sk

1. The Additional Collector of Customs
Customs House, Port Area, Visakhapatnam-530036.
2. One copy to Mr.M.Rama Rao, Advocate, 3-4-835/2,Barkatpura,Hyd-27.
3. One copy to Mr.M.Jaganmohan Reddy, Addl.CGSC.CAT.Hyd.
4. One copy spare.
5. One copy to Hon'ble Mr.C.J.Roy, M(J)CAT Hyd.

pvm

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CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.

AND

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

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY:
MEMBER(J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER(J)

Dated: 7 - 8 - 1992

ORDER / JUDGMENT

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

~~in~~

O.A.No. 609/92

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

Admitted and interim directions issued

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A.Ordered / Rejected

No orders as to costs.

pvm.