

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
HYDERABAD

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OA No. 160/93

Date of judgement: 8-4-93.

Between

Shri D. Livingston : Applicant

And

The Dy. Director General & Appointing  
authority, Southern Region  
Geological Survey of India  
CSI Complex, Bandlaguda, Hyderabad : Respondent

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COUNSEL FOR THE APPLICANT : Shri K. Vinay Kumar

COUNSEL FOR THE RESPONDENT : Shri N.V. Ramana.

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Hon'ble Justice Shri V. Neeladri Rao, Vice-Chairman.

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

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(Judgement of the divn. bench delivered by Shri R. Balasubramanian, Member (Admn.)

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Heard Shri K. Vinay Kumar, learned counsel for the applicant and Shri N.V. Ramana, learned counsel for the Respondent.

The applicant joined the respondent organisation in September, 1989 as Senior Technical Assistant (Geophysics). While functioning as such, the District Collector, Warrangal issued a show cause notice on 29-4-92 seeking his explanation regarding <sup>his</sup> caste on the basis of which he had secured this employment. It is alleged that based on this, all of a sudden without any enquiry and without providing any opportunity of being heard and even without any final order from the District Collector, the respondent issued impugned <sup>the</sup>

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notice dated 15-2-93 terminating the services of the applicant under sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965.

It is this action of the respondent terminating the services of the applicant without ~~initiating~~ any action under the relevant rules that is being questioned in this OA which seeks a direction to declare the impugned order dated 15-2-93 as illegal and to set aside the same.

The Respondent opposed the OA and has filed a counter affidavit. It is stated that the District Collector, Warrangal, vide his order dated 16-9-92, has cancelled the caste certificate dated 29-8-89 issued by the Mandal Praja Parishad, Vardannapeta. This order of cancellation of the caste certificate was also served on the applicant on 5-2-93. It is stated that the respondent was left with no choice but to act on the order of the District Collector and hence they ~~they~~ terminated the services of the applicant which was secured on the certificate which ~~is no longer there.~~ stands cancelled.

Leaving aside the question of the caste to which the applicant belongs, it is the action of the respondent in invoking sub-rule (1) of Rule 5 of the CCS (Temporary Service) Rules that is <sup>to</sup> ~~being~~ examined. It has been held by several courts in several cases that this rule cannot be invoked as an alternative or as a camouflage to regular disciplinary action ~~and it~~ ~~should be~~ governed by <sup>the</sup> relevant rules on the subject. In the instant case, we find that the termination has been resorted to without following the disciplinary procedure ~~and~~ taking recourse to the easy way under Temporary Services Rules. In view of the clear legal

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position, we are unable to sustain the action of the respondent in taking recourse to Temporary Service Rules. We, therefore, quash the impugned order dated 15-2-93 terminating the services of the applicant. Since the applicant is continuing in service by virtue of Interim order dated 1-3-93, no further direction on consequential benefits is necessary.

It is needless to say that the Respondent is at liberty to ~~initiate~~ <sup>take</sup> proper disciplinary action based on the cancellation of the caste certificate. The application is disposed of with the above direction with no order as to costs.

(V. Neeladri Rao)  
Vice-Chairman

(R. Balasubramanian)  
Member (Admn.)

(Open Court dictation)

Dated 8th April, 1993.

Deputy Registrar (J)

To NS

1. The Deputy Director General & Appointing authority, Southern Region Geological Survey of India, GSI Complex, Bandlaguda, Hyderabad
2. One copy to Mr.K.Vinay Kumar, Advocate Advocates association, High Court of A.P.Hyderabad.
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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CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEELADRI RAO  
VICE CHAIRMAN

AND

THE HON'BLE MR. R. BALASUBRAMANIAN :  
MEMBER (ADMN)

AND

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

DATED: 8 - 4 - 1993.

~~ORDER~~ JUDGMENT

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

in

O.A.No.

160/93.

T.A.No.

(W.P.No

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions

Dismissed as withdrawn.

Dismissed

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

