

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.A. 384/93.

Dt. of Decision : 29-08-96.

S. Guruvulu

.. Applicant.

vs

1. The Director General,  
A.E.R. Akashavani Bhavan,  
Parliament Street, New Delhi.
2. The Station Director, A.I.R.  
Visakhapatnam, A.P.
3. The Superintending Engineer,  
A.I.R. Visakhapatnam. .. Respondents .

Counsel for the Applicant : Mr. K. Lakshmi Narasimha

Counsel for the Respondents : Mr. V. Rajeswara Rao, Addl.CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE B.C. SAKSENA : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

.. 2

B.C.

ORDER

Oral Order (Per Hon'ble Shri Justice B.C.Saksena : Vice chairman)

Heard Mr. K.Lakshmi Narasimha, learned counsel for the applicant and Mr. V.Rajeswara Rao, learned counsel for the respondents.

2. Through this OA the applicant has prayed for the quashing ~~questioning~~ of the order No.4/146/92/SVI/344 dated 15-03-1992 passed by the 1st respondent rejecting his appeal against the order of termination. The applicant has also sought setting aside ~~of~~ the order No.24(SG)/92-S-7294 dated 3-11-92 passed by the 2nd respondent and also the order dated 16-10-92 passed by the 3rd respondent. The admitted facts as available on the basis of the pleadings of the parties are that the applicant was appointed as a Security Guard in the All India Radio, Visakhapatnam w.e.f. 7-4-89, copy of the order of appointment is at Annexure R-II. The applicant through the said order was appointed on a temporary post of Security Guard. It was also stipulated that he will be on probation for a period of two years from the date of appointment. By the impugned order the services of the applicant have been terminated since he was not found fit for "termination of probation even after two exten~~tions~~.

3. The learned counsel for the applicant mainly submitted that he was not governed by the provision of the Central Civil Service (Temporary Services) Rule, 1965. A submission has been made in regard to definition of "temporary service" as given in Rule-2(d) which means the service of a temporary Government servant in a temporary post or officiating service in a permanent post, under the Government of India. The learned counsel submitted that the respondents in the counter affidavit have admitted that the applicant was appointed against a permanent post. The learned counsel therefore urges that the applicant would not be governed by the provision of the temporary services rules. We are unable to say whether Rule-1 (3) clearly specifies the persons <sup>to</sup> whom the rule will apply. In sub rule-3 of rule 1 it has been provided that the rule

(93)

will apply to all persons who hold a civil post including all civilians paid from the Defence Services Estimates under the Government of India and who are under the rule-making control of the President, but who do not hold a lien or a suspended lien on any post under the Government of India or any State Government. The applicant has failed to indicate that he held lien on any other post. His appointment was against ~~that~~ <sup>a temporary</sup> post and he was placed on probation. He has not even completed his probation period satisfactorily, hence the order of termination has been passed which has also been up-held by the appellate authority as well as the competent authority. We, therefore, hold that the applicant was governed by the CCS(Temporary Service) Rules.

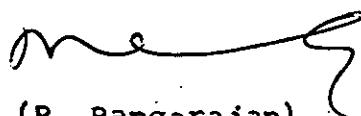
4. The learned counsel for the applicant submitted that before termination order, ~~of~~ the applicant was issued, a chargesheet dated 14-7-92 was issued and instead of holding the departmental enquiry, order or termination has been passed. Hence it is a colourable and malafide exercise of power. This submission cannot be accepted. It may be that the chargesheet has been issued to the applicant for some alleged act of ~~permissiveness~~ <sup>remissness</sup> on his part but it has been held by the Hon'ble Supreme Court in a decision reported in 1991 the State of U.P. Vs. K.K.Sukkla that it is always open to the authorities having issued a chargesheet to drop the proceedings and not to act further ~~to~~ <sup>and</sup> use their power under the ~~conduct~~ <sup>Contract</sup> or the temporary service rules. The mere fact that the chargesheet has been issued to the applicant is ~~fully~~ wholly irrelevant. The applicant was placed on probation and from the pleadings on record it appears, two extensions were accorded ~~after~~ <sup>work was</sup> The extension of the initial period of probation, ~~has~~ ~~not~~ <sup>not</sup> ~~been~~ ~~been~~ ~~satisfactory~~. On the contrary he was irregular, unfunctional, negligence of the official duties. The detailed facts have been

94

-4-

indicated in paragraph-3 of the counter affidavit. We are, therefore, on the basis of the pleadings on record, satisfied that the applicant did not ~~complete~~ <sup>complete</sup> ~~satisfactorily~~ <sup>satisfactorily</sup> the probation period and his services could have been terminated and have rightly been terminated in the exercise of powers under Rule-5 of the CCS (Conduct) Rules.

5. In view of the discussion here in above the OA fails and accordingly dismissed. Parties will bear their own costs.



(R. Rangarajan)  
Member (Admn.)



(B.C. Saksena)  
Vice Chairman

Dated : The 29th August 1996.  
(Dictated in Open Court)

  
D.Y. Registrar (3)

spr

95

: 5 :

O.A.385/93.

Copy to:-

1. The Director General, A.I.R. Akashavani Bhavan, Parliament Street, New Delhi.
2. The Station Director, A.I.R., Visakhapatnam, A.P.
3. The Superintending Engineer, A.I.R. Visakhapatnam.
4. One copy to Sri. K.Lakshminarasimha, advocate, CAT, Hyd.
5. One copy to Sri. V.Rajeswara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-

8/29/96

00384/96

Typed By  
Compared by

Checked By  
Approved by

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

Hon'ble Mr. Justice B.C. Saksena, V.C.

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED:

29/8/96

ORDER/JUDGEMENT  
R.C.P./M.A.NO.

D.A.NO.

384/96

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

YLKR

II COURT

