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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA. 61495

DT. 31-7-97

Between

K. Harinath Babu : Applicant

and

The Department of Atomic Energy
Heavy Water Plant
Govt. of India, Manuguru, rep. by
General Manager
Aswapuram 507116
Khammam District AP

: Respondent

Counsel for the applicant : G. VidyaSagar
Advocate

Counsel for the respondents : N.R. Devaraj
Sr. CGSC

CORAM

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.) *9/31*

Judgement

Oral order (per Hon. Mr. H. Rajendra Prasad, Member (Admn))

Heard Mr. Ravi Mohan for Mr. Vidya Sagar, on behalf of the applicant and Mr. N.R. Devaraj, for the respondents.

1. The applicant in this OA was engaged as Casual Labourer in November, 1985. He was granted temporary status in March, 1994. According to the scheme evolved by the Government all ~~casual~~ Casual Labourers with temporary status who had put in minimum of 240 days in a calendar year on or after 1-9-1993 were entitled to be considered for regularisation of their services in order of their seniority. The applicant was duly interviewed for the purpose in May, 1994, and it would be seen that he was being considered for the post of Helper. However, in May, 1995, the applicant's services were terminated.

2. The grievance of the applicant is that before dispensing with his services neither ^{was} a month's notice was served on him in writing nor were any reasons spelt out for such termination. The applicant states that he was discharging his duties ^{enti} consciously and nothing adverse had ever come to the notice against him at any time. He was denied a reasonable opportunity to put up his explanation. The termination order was, therefore, in violation of principles of natural justice.

3. Based on the above pleadings the applicant prays for a direction for quashing the impugned order issued by the Administrative Officer on behalf of the respondents vide memo No. WWP(M)/Rectt/04/1(B)/328 dated 2-5-95, (A-2 to the OA)

4. The respondents in their counter-affidavit explain that the services of the applicant had to be terminated

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since he was found to be involved in a criminal case in the Court of Munsif Magistrate, Aswapuram. According to the respondents, the information gathered by them showed that the applicant was found to have been involved in four criminal cases and that this information was suppressed by him in the attestation forms submitted by him for the post of Helper.

5. In reply to the counter affidavit, the learned counsel for the applicant states that the applicant was acquitted in two of the four criminal cases (Cr.No.5/75 and Cr.6/75). In the third case (Cr.13/75), the applicant was convicted but released by getting surety for keeping good behaviour for the period of one year. In the fourth and the last case the applicant was bound over by the Munsif Executive Magistrate for keeping good behaviour. This information is supported by Certificate C.28/SI-P.II/97 dated 21-1-1997 by the Inspector of Police Aswapuram P.S.

6. It is thus submitted by the applicant's counsel that none of the above so-called convictions would warrant termination of his service, and he could be regarded as having been cleared of all criminal charges.

7. It is noticed that the applicant has not projected any grievances or submitted any appeal with the respondents before filing this OA. It would be necessary to offer an opportunity to the respondent to examine the facts as stated by the applicant and thereby to apply his mind before the OA can be entertained in this regard.

8. In an identical case this Tribunal, while disposing of OA.864/88 (R. Veerachari Vs. Administrative Officer, Heavy Water Project, Manuguru) on 26-12-1988 had rejected the plea of the applicant therein that securing employment by ^{of} deceitful means did not amount to mis-conduct. At the same time it was held that the applicant was entitled to an opportunity of being heard in regard to allegation that he had suppressed relevant material while joining service. (In the present instance the applicant has ~~not~~ omitted ^{to} mentioning anything about his earlier Court cases, while submitting his application for the post of a Helper, either at the time of his initial engagement as Casual Labourer or at the time of grant of temporary status of him) The Tribunal having held that, adequate opportunity or notice not been given to the applicant therein, the impugned order of termination of his services was illegal and set aside the same. It was ruled that while the employer possessed the power to terminate his service in the event of the employee securing a job by mis-representation of facts, such action of termination had to be effected legally by affording a reasonable opportunity to the affected employee. The respondents were, therefore, left free to take action against the applicant, if ^{considered} justified, but only in accordance with rules ^{and duly} after following the prescribed procedures if they so desired to take action against the applicant. I am, with respect, in total agreement with the views of the learned Division Bench in the said OA.

9. It is, therefore, directed that the applicant may file a comprehensive representation, supported by all

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material documents, to the respondent, i.e., General Manager, Heavy Water Plant, within the next two weeks. Should such a representation be submitted and received in the office of the respondent, the same shall be examined by the General Manager on the basis of the facts contained therein, and a suitable decision taken and communicated to the applicant within 60 days thereafter. Should the General Manager consider it necessary for any reason to refer the matter to a higher authority, the same shall be done within the period indicated above under intimation to the applicant, and a final decision in the matter shall be communicated to the applicant within 30 days thereafter.

10. Thus, the OA is disposed. No costs.

H. Rajendra Prasad
Member (Admn)

Dated : 31st July, 1997
Dictated in Open Court

Amrit
Deputy Registrar (S) ce

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O.A.614/95.

To

1. The General Manager, Dept.of Atomic Energy
Heavy Water Plant, Govt.of India,
Manuguru, Aswapuram, Ekkhammam Dist.A.P.
2. One copy to Mr.G.Vidyasagar, Advocate, CAT.Hyd.
3. One copy to Mr.N.R.Devraj, Sr.OGSC. CAT.Hyd.
4. One copy to HHRP.M(A) CAT.Hyd.
5. One copy to D.R.(A) CAT.Hyd.
6. One spare copy.

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effc
11/8/97

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE-CHAIRMAN

and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 31 - 7 - 1997

ORDER/JUDGMENT

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

in
O.A.No. 614/qs-

T.A.No.

(w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions
Dismissed.

Dismissed as withdrawn
Dismissed for default.

Ordered/Rejected.

No order as to costs.

PVM

