(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.1368 of 1995.

Date of decision: March 4, 1998.

Between:

M.Sanjeev Kumar. .. Applicant

and

General Manager, Ordnance Factory,
Eddumailaram, Medak District. Respondents.

Counsel for the applicant: Sri S.Lakshma Reddy.

Counsel for the respondent: Sri V.Bhimanna.

CORAM:

Hon'ble Sri A.V.Haridasan, Vice-Chairman(J)Ernakulam Bench.

Hon'ble Sri H.Rajendra Prasad, Member (Administrative.)

JUDGMENT.

(per Hon'ble Sri A.V.Haridasan, Vice-Chairman(J),
Ernakulam Bench)

..

Heard Sri S.Lakshma Reddy for the applicant and Sri V.Bhimanna for the respondent.

2. The applicant was selected for appointment on the post of Dharwan in the Respondent's Factory. Pending finalisation of his character and antecedents he was appointed as Dharwan on casual basis initially for 89 days with effect from 13-9-1991. This appointment was renewed for further period of 89 days. Thereafter with effect from 11.3.1992 he was not engaged. The applicant was told that he would

be taken back to duty only after finalisation of C.C.365/1989 pending against him in the Court of the Judicial Magistrate of the First Class, Sangareddy. The Criminal case according to the applicant was foisted on him on account of certain Civil disputes between him and a neighbour. The case was subsequently compounded and the applicant was acquitted by the judgment dated 28.3.1994. The respondent, however, has not reinstated the applicant in service. The applicant contends that as he was selected for regular appointment, his appointment though described as casual was in fact regular and therefore the termination of his service with effect from 11.3.1992 is not following the due process of law is illegal and unjustified. He further contends that the fact that the Criminal Case arose only on account of a dispute between neighbours and the same was ended in his acquittal, there is no moral turpitude involved disqualifying him for appointment in Government service. The applicant therefore prays that the termination of his service with effect from 11.3.1992 may be set aside and the respondents be directed to reinstate him in service forthwith with all consequential benefits.

3. The respondent contends that the applicant though pending verification of his character and antecedents was given casual appointment as Dharwan for two terms, as it was revealed in the Police report that two cases were registered by the police against him which were pending did not reengage him further as he was not found to be a fit person

to be appointed in Government service. It is further contended that as the applicant had in the attestation form submitted by him prior to his appointment on casual basis suppressed the fact that a Criminal case was pending against him against definite querry has become disqualified for appointment and that therefore he is not entitled to any relief. The respondent has further contended that it is not correct to say that his services were illegally terminated as he was appointed for two spells only on casual basis, and he was not engaged thereafter as he was found not a person suitable for appointment for his involvement in a Criminal Case and suppression of the material fact in the attestation form.

4. On a careful consideration of the facts and circumstances emerging from the pleadings in the case, we are not satisfied that the applicant's services were illegally terminated, warranting a direction to the respondent to reinstate the applicant in sefvice with consequential benefits. Though the applicant was selected for regular appointment as a Dharwan he was not regularly appointed on the post pending verification of his character and antecedents which is a prerequisite for appointment. However, the applicant was given casual employment for 89 days initially and again 89 days in another spell. Thereafter the applicant was not engaged as he was an accused in a Criminal Case, C.C.365/89. The action of the respondent in not engaging him after receipt of information of pendency of Criminal Case against the applicant cannot be faulted at all. Therefore,

there is no illegal termination of his services. Further the applicant has been guilty of suppressing the fact that a Criminal Case against him was pending in the attestation form. Therefore, the applicant is not entitled to the relief sought by him.

5. The learned counsel for the applicant submitted that as the applicant has since been honourably acquitted by the Criminal Court and as the case arose only because of some civil dispute the respondent may now be directed to consider his appointment on the post for which he was selected. The learned counsel for the respondent fairly agreed that the respondent would consider that, and take an appropriate decision within a time to be stipulated by this Tribunal.

6. In view of this submission by the counsel on either side, we dispose of this application with a direction to the respondent to consider the appointment of the applicant on a post of Dharwan taking into account the fact that the applicant has been acquitted in C.C.365/89 and on a reverification of the character and antecedents of the applicant and to communicate the decision to the applicant within a period of four months from the date of receipt of a copy of this Order.

7. There is no order as to costs.

H.RAJENDRA PRASAD.
Member(J)

A.V.HARIDASAN,
Vice-Chariamn(J)
Ernakulam Bench

Date: 4th March, 1998.

sss. Dictated in open Court.

Deputy Registrar

G.Vas 19/3/98

I Court

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE A V Haridasan
VICE-CHAIRMAN

AND

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

DATED: 4-3-1998

~~ORDER~~/JUDGMENT:

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

in

O.A.No. 1368/95

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

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.