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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.112/97.

Date of order : 19.2.1997.

Between

K.Subba Reddy

.. Applicant

And

1. The Chief General Manager,
Telecommunications,
A.P.Circle,
Doorsanchar Bhavan, Abids,
Hyderabad.
 2. The Telecom. Dist. Manager,
Cuddapah.
 3. The Sub-Divisional Officer,
Telephones,
Cuddapah.
- .. Respondents

Counsel for the Applicant

.. Shri V.Venkateswara Rao

Counsel for the Respondents

.. Shri V.Rajeswara Rao,
Addl. CGSC

C O R A M

Hon'ble Shri R.Rangarajan : Member(A)

Hon'ble Shri B.S.Jai Parameshwar : Member(J)

Order

[Per Hon'ble Shri R.Rangarajan : Member(A)]

This O.A. came up for hearing today for orders for inter relief. However, after hearing both sides, we felt that this O.A. can be disposed of finally. Both the parties agreed to that course of action. Hence the O.A. is disposed of as under

2. The applicant in this O.A. was engaged as a casual labour w.e.f. 11.2.85 and was disengaged in the month of March, 1985 for want of work. He was again engaged during March, 1988 on daily wages and continued as such without any break. He was granted temporary status by order dated 30.6.95 (annexure A-II to the O.A.). There are two important provisions in the order while granting him temporary status. They are:

- (1) Their services may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of non-availability of work.

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- (2) If any temporary mazdoor commits a misconduct and the same is proved in an enquiry after giving reasonable opportunity his services will be dispensed with. They will not be entitled to the benefit of encashment of leave on termination of services.
3. Notice of termination was given to him by the impugned order No.X/Disc/IV/96-97/108 dated 22.1.97 by giving him notice under Rule 5(i) of the C.C.S.(Temporary Service) Rules, 1965. The notice period expires on 21.2.97.
4. This O.A. is filed praying to quash the impugned notice No.X-Disc/IV/96-97/108 dated 22.1.97 and by holding it as illegal, arbitrary and unconstitutional and for a consequential direction to continue him in service with all consequential benefits
5. When the O.A. was taken up today for interim order the learned counsel for the respondents submitted that a notice for termination of service was given under Rule 5(i) of the C.C.S.(Temporary Service) Rules, 1965 and this is an order simpliciter and hence there is no need to give any reason for giving notice of termination. On further probing the learned counsel for the respondents submitted that it is a case of irregular engagement in casual service as he submitted the incorrect number of working days for granting him temporary status. Thus, from the above submission it looks that he has been given notice of termination for alleged misconduct on his part.
6. The learned counsel for the applicant submitted that if it is an alleged misconduct his services should be terminated under the provisions of the Industrial Disputes Act as contained in para 2(1) above or if he has been terminated he should be given reasonable opportunity by conducting an enquiry and on that basis his services can be terminated in view of the provisions contained in para 2(2) referred to above. But the above course of action was not resorted to. Instead the easiest way of terminating the services under Rule 5(i) of the C.C.S.(Temporary Service) Rules, 1965 was resorted to. If the

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real reasons for the impugned termination notice are examined by lifting the ^{veil} wheel in this case it will reveal that the applicant ^{is} was to be discharged for the alleged misconduct. Hence he submits that the provisions as contained in the letter engaging him in temporary service should be fully followed.

7. The learned counsel for the respondents submitted that in case an enquiry has to be conducted ~~the~~ provisions of the C.C.S.(C.C.A.) Rules have to be adhered to. Since the applicant is a temporary status casual mazdoor enquiry cannot be conducted in accordance with the provisions of the C.C.S.(C.C.A.) Rules. Hence the respondents have resorted to the issue of termination notice under Rule 5(i) of the C.C.S.(Temporary Service) Rules, 1965.

8. It is an established principle that an employee should be given sufficient opportunity to explain his conduct before terminating his services. This would mean that the principles of natural justice should be strictly adhered to. The C.C.S.(C.C.A.) Rules also stipulate the steps to be ^{followed to} adhered to the principles of natural justice. Whether it is called an enquiry under the C.C.S.(C.C.A.) Rules or an enquiry adhering to the principles of natural justice by giving reasonable opportunity to the delinquent employee is one and the same. Hence we are of the opinion that an enquiry may be conducted adhering to the principles of natural justice in this connection and on that basis further action may be taken thereby adhering to the stipulation laid down in the letter dated 30.6.95. The above course of action has been welcomed by both the parties.

9. In view of the above, the following order is passed.

The impugned order dated 22.1.97 is set aside. But the respondents are free to initiate disciplinary proceedings

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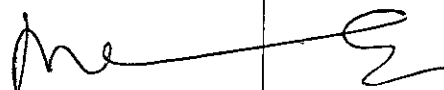
adhering to the rule of principles of natural justice and decide his case in accordance with the law.

10. The O.A. is ordered accordingly. No costs.



(B.S. Jai-Parameshwar)
Member (J).

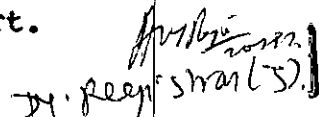
19/2/97



(R. Rangarajan)
Member (A).

Dictated in Open Court.

br.


M. P. S. Narayan (S.)

Copy to:-

1. The Chief General Manager, Telecommunications, A.P. Circle, Deendhanchar Bhavan, Abids, Hyd.
2. The Telecom, Dist Manager, Cuddapah.
3. The Sub Divisional Officer, Telephones, Cuddapah.
4. One copy to Sri. V.Venkateswara Rao, advocate, CAT, Hyd.
5. One copy to Sri. V.Rajeswara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One copy to Deputy Registrar(A), CAT, Hyd.
8. One copy spare.

Rsm/-

11/3/97

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

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

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED: 19/2/97

Order/Judgement
R.P/C.P/M.A.NO.

O.A.NO.

11297

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED
DISPOSED OF WITH DIRECTIONS ✓
DISMISSED
DISMISSED AS WITHDRAWN
DISMISSED FOR DEFAULT
ORDERED/REJECTED
NO ORDER AS TO COSTS. ✓

IF COURT

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ब्रेक/DESPATCH
10 MAR 1997
हैदराबाद ब्याचकीट
HYDERABAD BENCH