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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.33/99

Date of Order:10.11.99

BETWEEN :

P.Sasi Sekhar .. Applicant.

AND

1. Union of India, rep. by its
Comptroller and Auditor General of India,
New Delhi.

2. Principal Chief Controller of Accounts,
Central Board of Excise and Customs,
A.G.C.R.Building, Ist Floor,
New Delhi.

3. Pay and Accounts Officer,
Commissionerate of Customs and
Central Excise, Basheerbagh, Hyderabad. .. Respondents.

Counsel for the Applicant ..Mr.K.K.Chakravarthy

Counsel for the Respondents .. Mr.V.Rajeswara Rao

CORAM:

HON'BLE JUSTICE SHRI D.H.NASIR : VICE CHAIRMAN

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

O R D E R

)(As per Hon'ble Shri R.Rangarajan, Member(Admn.))(

None for the applicant. Mr.V.Rajeswara Rao, learned standing counsel for the respondents.

2. The applicant in this OA was appointed as an L.D.C. by R-2 in the scale of pay of Rs.950-1500 by order dated 2.12.93. He was posted under R-3. The R-3 issued a memo dated 8.6.95 calling upon the explanation from the applicant for his absence. The applicant was terminated by the impugned order dated 31.7.95 by the Deputy Controller of Accounts (Admn.) in exercising his power under CCS (Temporary Service) Rules, 1965. The applicant filed an appeal and that



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was disposed of rejecting his appeal on account of limitation. Hence he filed OA.999/98 on the file of this Tribunal which was disposed of on 7.8.98 directing the appellate authority to review his order in accordance with the law.

3. In pursuance of the above, the applicant also submitted a representation dated 28.8.98 (A-2) addressed to R-2 for reconsideration. That was considered by the appellate authority and upheld the earlier order of removal by the impugned order dated 4.12.98 (A-3).

4. This OA is filed to set aside the impugned order dated 4.12.98 by holding the same as illegal, arbitrary and contrary to rules and for a consequential direction to R-2 to reinstate the applicant with all backwages and other attendant benefits.

5. It is an admitted fact that the applicant was in temporary service as LDC and he was undergoing probation. Hence sub rule (1) of Rule (5) of the CCS (Temporary Service) Rules, 1965 provides for termination of the services of temporary employee ^{as per} giving payment of one month salary in lieu of one month notice period. The applicant does not contend that he is not a temporary servant. Hence it is an admitted fact that he was a temporary servant.

6. The only point for consideration is that whether such a termination order attaches any stigma on the applicant. If it attaches any stigma then ^{the} ~~a~~ normal rule of disciplinary proceedings has to be initiated. No where it is stated in the OA that the termination order was issued attaching any stigma to the applicant. Hence the termination order is a simplistic order terminating the services of the applicant in accordance with sub rule (1) of rule (5) of CCS (Temporary Servants) Rules, 1965. Hence we cannot find any reason to set aside that order.

7. Further we also studied the reply. ^{When} ~~If~~ the applicant ^{was} ~~did not~~ given enough opportunity to rectify his shortcomings then that itself should have made the applicant feel that he will be taken up under the Temporary Service Rules if he does not behave properly in attending the duties. In the reply it is seen that the applicant was a chronic absentee from the duties. In para-4 of the reply it is seen



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that a series of memos were served on him for absence without permission and it is also seen that Deputy Controller of Accounts (IA) CBEC, Madras had examined the case and gave a report to R-2 on 11.7.95 stating that inspite of his sincere advise and warning given to the applicant asking him to desist from availing of frequent spells of leave without prior intimation of proper sanction, there was no change in him and he also states that appointment on compassionate grounds was a case of 'misplaced sympathy' and recommended for his termination under Rule 5 of CCS (Temporary Service) Rules.

8. From the above it is evident that the principle of natural justice had been strictly followed in this case by serving memo on the applicant pointing out his absence without permission and that he should take note of the warnings to rectify his short comings. But it appears that the applicant did not change his attitude in performing the duties. The above reported attitude of the applicant has to be taken as substantiated as no rejoinder has been filed by the applicant. The applicant alleges that R-3 had demanded money and as that was not given his services were terminated. Such an allegation cannot be considered unless there are reasons to presume so. No tangible proof to the allegation has been brought out by the applicant. The very fact the applicant had absented himself without permission will stand in his way for getting the termination orders nullified.

9. From the above appreciation of the case it is evident that the applicant failed to discharge his duties even though his case was considered in a sympathetic view and appointed on compassionate grounds. It appears that he did not care to rectify his attitude inspite of warnings. The allegation of demanding money etc. cannot be taken note of without any proper grounds. Hence no interference is called for in regard to the order of termination.

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10. In view of the fore-going the OA is dismissed. No costs.


(R.RANGARAJAN)
Member(Admn.)


(D.H.NASIR)
Vice Chairman

Dated : 10th November, 1999
(Dictated in Open Court)

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D.H.NASIR