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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 19.2.2001

1. OA 552/99 with MA 4/2000

Mahesh Chand Kandera, Raju Lal Meena and Laxmi Narain Meena, all working as Messenger O/o Chief Engineer (North Zone)-III, CPWD, Jaipur.

2. OA 562/99 with MA 3/2000

Nahan Singh Gurjar, Messenger O/o Chief Engineer (North Zone)-III, CPWD, Jaipur.

... Applicants

Versus

1. Union of India through Secretary, Ministry of Works and Estates, Nirman Bhawan, New Delhi.
2. Director General of Works, Directorate General of Works, CPWD, Nirman Bhawan, New Delhi.
3. Dy. Director, CPWD, Nirman Bhawan, New Delhi.
4. Chief Engineer (North Zone)-III, CPWD, Nirman Bhawan, Sector-10, Vidyadhar Nagar, Jaipur.

... Respondents

CORAM:

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicants ... Mr. P. V. Calla

For the Respondents ... Mr. Tej Prakash Sharma

O R D E R

PER HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

The controversy involved and the relief sought in both the applications is the same and, therefore, both the applications are disposed of by this common order.

2. In these applications, the applicants have prayed for quashing and setting aside the impugned order dated 30.11.99, terminating the services of the applicants, and for a direction to the respondents to treat them in service with full back wages as if the impugned order dated 30.11.99 has never been issued.

3. Applicants' case is that they were appointed as Messenger through regular selection process in September,

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1999 with the respondent department. Their services were terminated abruptly by the respondents vide order dated 30.11.99 (Ann.A/1) under Rule-5(1) of the CCS (Temporary Service) Rules, 1965. Contention of the applicants is that their services could have been terminated had their performance been not satisfactory but it is alleged by the applicants that their services have been terminated without any rhyme and reasons, hence these applications.

4. In the counter it has been stated by the respondents that the applicants were recruited during the period when there was a ban on recruitment of Group-D employees and there have also been certain infirmities in the recruitment process and, therefore, services of the applicants were terminated under the impugned order dated 30.11.99 (Ann.A/1).

5. ~~He has~~ Heard the learned counsel for the parties and perused the records of the case carefully.

6. The impugned order dated 30.11.99 had come up for scrutiny before the Principal Bench of the Central Administrative Tribunal in OA 2568/99. While dismissing the said OA, the Principal Bench has observed as under :-

"14. In view of the procedural and other infirmities pointed out by respondents in the appointments, it cannot be said that their decision to cancel them was illegal or arbitrary. Respondents are also correct when they state that a person who joins service is bound by the rules applicable to that class of employees. As applicants were appointed as Messengers on purely temporary basis, the CCS (Temporary Service) Rules, 1965 were applicable to them and respondents are empowered to terminate their services under Rule 5 thereof, either by giving one month's notice, or alternatively by paying one month's salary and allowances in lieu of notice.

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15. Shri Aggarwal has also submitted that on the principle of estoppel, respondents could not have terminated applicants services. It is contended that there was an implicit assurance that since applicants had joined Government service, they would have a long career ahead of them, during the course of which they would also have been promoted, all of which has set at naught by the impugned orders. This contention has no merits because applicants services have been terminated in accordance with rules which have statutory force, and there can be no estoppel against statute."

7. In the light of the above discussion, I do not find these cases fit for interference by the Tribunal. Both the OAs are accordingly dismissed with no order as to costs.

8. I leave it to the respondents to consider the case of the applicants for employment as and when fresh recruitment takes place.

(gopal singh)

(GOPAL SINGH)
MEMBER (A)