

Central Administrative Tribunal
Jabalpur Bench

OA No.451/04

Indore, this the 18th day of August 2005.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

Badal Prasad

Son of Late Chhotu Choudhary

R/o H.No.2626, Polipathar

Jabalpur.

Applicant

(By advocate Shri Deepak Awasthy)

Versus

1. The Union of India through
Its Secretary
Ministry of Defence
New Delhi.
2. The Ordnance Factory Board
Through its Chairman & Director General
Ayudh Bhawan
10-A, Shahid Khudiram Bose Marg
Kolkata.
3. The General Manager
Gun Carriage Factory
Jabalpur.

Respondents

(By advocate Shri P.Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) Quash the impugned order dated 30.3.2004 (Annexure A1)
and order dated 25.10.97 (Annexure A2).


2. The brief facts of the case are that the applicant who was
appointed as unskilled labour vide order dated 3.11.1995 on



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compassionate grounds was removed from service vide order dated 25.10.97 passed by General manager, GCFR, Jabalpur. He was removed from service during the probation period, as his services were not found satisfactory. The applicant challenged his removal by filing OA No.702/99. The Tribunal disposed of the OA directing the respondents to consider the representation of the applicant-dated 24.11.97. However, respondent No.2 – the Ordnance Factory Board rejected the appeal of the applicant vide order dated 30.3.04 (Annexure A1) which is impugned in this OA.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant was appointed on compassionate ground on account of the death of his father. He was removed from service during probation period without any warning or show cause notice on the purported ground of poor performance. The applicant was not given an opportunity of personal hearing. Though the applicant submitted a representation following the directions of the Tribunal, the respondents had rejected his representation. The learned counsel further argued that the respondents have not filed any document about his alleged absence of 300 days. The applicant is legally entitled for the reliefs claimed.

4. In reply, learned counsel for the respondents argued that the applicant was appointed on compassionate grounds consequent on the death of his father and he was on probation for a period of two years. Within this period of probation, the competent authority in the event of unsatisfactory performance had the right to terminate the services without assigning any reasons. The performance of the applicant was not satisfactory and he remained absent without prior intimation for a period of 300 days. He had not given any intimation to the management regarding the reasons for his absence. Considering the seriousness of the issue, and as per the terms and conditions of the appointment, the services of the applicant were terminated vide the impugned order. The impugned order was passed within the period of probation. The applicant has not right for retention in service. The



applicant has not filed any rejoinder to the reply filed by the respondents with regard to his absence of 300 days. Hence this OA deserves to be dismissed.

5. After hearing learned counsels for both parties and carefully perusing the records, we find that the applicant was appointed on compassionate grounds on 3.11.95. It was specifically mentioned in the appointment letter that he would be on probation for a period of 2 years and if found necessary, it can be extended further and that his services can be terminated during the probation period without assigning any reason. The arguments advanced on behalf of the respondents are that the services of the applicant were not found satisfactory and he had absented himself from duty for 300 days and he had not given any intimation regarding his absence. The applicant does not controvert these facts by filing any rejoinder. Merely advancing arguments in this regard by the applicant seems to be not sufficient. His service was ordered to be terminated vide order dated 25.10.97 i.e. within the period of two years of his appointment. Hence his service was terminated during the probation period and his representation was also rejected vide order dated 30.3.2004. Both these orders seem to be perfectly legal and justified.

6. Considering all facts and circumstances of the case, the action of the respondents is perfectly legal and justified. The OA has no merit and is liable to be dismissed. Accordingly the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

प्रमाणित सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अद्यो धित:-

- (1) सचिव, उच्च न्यायालय एवं एडमिनिस्ट्रेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) मध्यपाल, रजिस्ट्रार, जबलपुर जलप्रीड
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

6-9-05

Issued
6/9/05