

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.537/04

Bilaspur. this the 3rd day February, 2005

CORAM

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Amar Lal
S/o Babu Lal
Caste-Basore (SC)
Conservancy Safaiwala (CSW)
Station Headquarters Sultania
Infantry Line
Bhopal (MP).

Applicant

(By advocate Shri N.S.Ruprah)

Versus

1. Union of India through
The Secretary
Defence Department
Govt. of India, New Delhi.

2. Commander
M.P.Sub Area Sultania
Infantry Line
Bhopal (MP)

Respondents.

(By advocate Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) To quash the impugned termination notice (Annexure A1).
- (ii) To direct the respondents to consider the applicant as regular employee on the post of Conservancy Safaiwala.

2. The brief facts of the case are that the applicant was appointed by order dated 13.11.2001 on the post of Conservancy Safaiwala. The probation period was for two years. After completion of 2 years, the applicant would become a regular conservancy safaiwala. The pay slips of the applicant for the month of November 2003 and February 2004 are filed as Annexure A4. He was contributing to the Provident Fund also. The applicant has never been communicated any adverse remarks and during the period of probation, he was appreciated by his



immediate superiors. After completion of the probation period of 2 years, the applicant was given extension of 6 months which expired on 14.5.2004. Without giving a show cause notice or an opportunity of hearing or any charge sheet, the impugned order dated 21.6.04 (Annexure A1) was issued to him, by which the applicant was given one month's notice of termination of his services. Annexure A1 is illegal and without jurisdiction. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant was appointed on 13.11.2001. His probation period of 2 years was extended by 6 months. There was no complaint against the applicant and no adverse remark has ever been communicated to the applicant. The applicant was appointed regularly after fulfilling of the formalities as per the rules. Even then the respondents have passed the impugned order dated 21.6.04 (Annexure A1) without affording the applicant an opportunity of hearing. The applicant was absenting from duties from 7th October to 15th October, 2002 and further argued that though the charge sheet was issued against the applicant it was subsequently dropped. Hence the impugned order is liable to be set aside and the applicant is entitled for the reliefs claimed.

4. In reply, the learned counsel for the respondents argued that the applicant was appointed as temporary conservancy safaiwala w.e.f. 15th November 2001. Service can be terminated without notice during the period of probation. The applicant never performed exemplary duties as claimed. His performance was rated as poor and his probation period was extended by



6 months. As he has been assessed as 'casual', graded 'poor' and not recommended for retention, hence the board of officers too recommended him for discharge from service. The applicant was given the chance to improve by extending his probation period, yet he failed to come up to required standard in his punctuality, performance and sense of duties. The applicant was a habitual absentee from duty without prior sanction of leave. For this misconduct, he has been warned verbally many times. Thereafter, a charge sheet dated 30th November 2002 was issued to the applicant for unauthorized ~~absence~~ from 7th October to 15th October, 2002. Further, a lenient view on the charge was taken on his apology letter dated 16th December 2002 and the charge was dropped. (Annexure R7.). One month notice of termination of service under the terms and conditions of appointment of conservancy safaiwala dated 21st June 04 was issued to the applicant which was received by him on 25th June 2004. Hence the action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for both parties and after carefully perusing the records, we find that the main allegation against the applicant is that he had absented himself from duty from 7th October to 15th October 2002, about which a charge sheet under Rule 16 of the CCS (CCA) Rules was issued but the charge was dropped vide order dated 16.12.02 on apology (Annexure R-7) and there was no complaint against the applicant about any misconduct, misbehaviour, disobedience of any order or about any moral turpitude. We have perused Annexure ~~A-8~~ ^{dated 14.7.2004} It is a certificate issued by the Col. by which it is certified that the applicant has served in HQ Bhopal Sub Area Officers' Mess as a cook from November 2001 to July 2004 and it is further mentioned that "We wish all the best



for his bright future". He has also served as cook apart from his work as Safaiwala and his work was always appreciated by his officers. The applicant has completed his probation period on 14.5.2004 and the impugned order dated 21.6.04 (Annexure A1) was issued after completion of the probation period. The applicant is a low paid employee of Group 'D' class.

6. Considering all the facts and circumstances, we are of the considered opinion that the impugned order dated 21.6.04 (Annexure A1) is liable to be quashed and set aside. We do so accordingly. The respondents are directed to reinstate the applicant but it is made clear that the applicant shall not be entitled for backwages as he has not worked during this period, i.e. till the date of his reinstatement. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं जो/न्या.....जबलपुर, दि.....
प्रतिनिधि कार्यपालिका:-
(1) सचिव, जबलपुर नगर पालिका, जबलपुर
(2) अध्यक्ष, नगर पालिका, जबलपुर
(3) सदस्य, नगर पालिका, जबलपुर
(4) नगर पालिका, जबलपुर
सूचना एवं जनसम्पर्क विभाग, जबलपुर

M.S. Ruprah Adv. 088
S.P. Sharma Adv. 088
Adv. 088

Issued
On 10.2.05
[Signature]