

CENTRAL ADMINISTRATIVE TRIBUNAL  
JABALPUR BENCH

OA No. 501/03

~~Complaint~~, this the 8<sup>th</sup> day of December, 2004

CORAM

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

Mukesh Ahirwar  
S/o Late Shri Mithai Lal Ahirwar  
Ex Unskilled Labourer  
Fitting B-Section  
Gun Carriage Factory  
Jabalpur.  
R/o H.No.9228, Polipathar  
in front of Dr.Bose Hospital  
Gwarighat Road  
Jabalpur.

Applicant

(By advocate None)

Versus

1. Union of India through  
Ministry of Defence  
New Delhi.
2. General Manager  
Gun Carriage Factory  
Jabalpur.

Respondents.

(By advocate Shri S.P.Singh)

O R D E R

By Madan Mohan, Judicial Member

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

- (i) To set aside the impugned termination order dated 29th April 2003 (Annexure A1).
- (ii) Direct respondent No.2 to reinstate the applicant in service with full back wages.
- (iii) To further direct respondent No.2 to make payment of subsistence allowance to the applicant with 18% interest.

2. The brief facts of the case are that the applicant was appointed as unskilled labourer on compassionate grounds on 26th April 1999. The applicant's wife Smt.Arti Ahirwar, committed suicide on 28.9.02. Following this, the applicant was arrested on 7.10.02 in connection with the alleged dowry death of his wife and the applicant remained in police custody



for more than 48 hours. The applicant was suspended from service w.e.f. 7.10.02. No order for subsistence allowance was issued nor was subsistence allowance paid to the applicant. The applicant submitted a representation dated 20.3.03 (Annexure A6) which elicited no response. By impugned order dated 29th April 2003 (Annexure A1), the applicant's services were terminated. Hence this OA is filed.

3. None is present for the applicant. Hence the provision of Rule 15 of CAT (Procedure) Rules, 1987 is invoked.

4. Heard the learned counsel for the respondents. The learned counsel for the respondents argued that the applicant who was appointed on compassionate ground was irregular in his attendance and was unauthorisedly absenting himself without prior permission. He was also poor in performing his assigned work. Because of these shortcomings, his probation period was extended on three different occasions. The applicant was clearly warned that his irregular attendance and unauthorised absence were the precise reasons for ~~which his probation period was being extended~~. He was advised to improve failing which his services would be terminated without any further notice as per the terms and conditions of the appointment order. The copy of his extension of probation period and reprimand are enclosed as Annexure R1 to R3. Inspite of the above warning and advices, the applicant became further irregular and went on 40 days' leave on the irregular extended period and again went on 64 days' leave on the third extended period. As a probationer, he was supposed to maintain basic integrity and sincerity but he miserably failed in this. The learned counsel further argued that the applicant was arrested in a dowry case and he was placed under suspension w.e.f. 7.10.02. Considering

of

all these facts and circumstances, the respondents were compelled to pass the impugned order dated 29th April, 2003 (Annexure A1) terminating the services of the applicant. The action of the respondents is perfectly legal and justified.

5. After hearing the learned counsel for the respondents and on a careful perusal of the records, we find that the applicant was initially appointed on compassionate grounds on 26th April 1999. His period of probation was 2 years but the respondents had extended the period of probation period for further six months vide order dated 15.5.01 (Annexure R1); again by six months vide letter dated 25.11.01 and by another six months vide letter dated 4.5.02 (R2 & 3 respectively). As the applicant was absenting himself without permission of the respondents, he had miserably failed to maintain integrity and sincerity as a probationer and further he was arrested in a case of dowry death, under sections 304-B and 498-A of Indian Penal Code, and after about 6 months he was released on bail in compliance of order dated 10.4.03 passed by Hon'ble High Court. That criminal case is said to be still pending against the applicant. He was also placed under suspension vide order dated 6.1.03 (Annexure R4).

6. Considering all the facts and circumstances of the case, we are of the considered opinion that there is no irregularity or illegality in passing the impugned order dated 29th April 2003 (Annexure A1). This OA has no merit and deserves to be dismissed. Accordingly the OA is dismissed. No costs.

(Madan Mohan)  
Judicial Member

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(M.P.Singh)  
Vice Chairman