

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 169 of 2001

Jabalpur, this the 15th day of June 2004

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

Balram Sahu, aged 25 years,
S/o. Shri Dukaluram Sahu,
R/o. House No. 1019/1, Near
Athithigrah, Hathital Colony,
Jabalpur (MP).

... Applicant

(By Advocate - Shri B.L. Nag)

V e r s u s

1. Union of India,
through the Secretary,
Govt. of India,
Department of Personnel & Training,
North Block,
New Delhi - 110011.
2. The Registrar (Estt.),
Central Administrative Tribunal,
Principal Bench, Faridkot House,
Copernicus Marg, New Delhi - 110001.
3. Registrar (Estt.),
Central Administrative Tribunal,
Caraves Building, 15, Civil Lines,
Jabalpur (MP).
4. Smt. Tarabai Besware,
working as Peon in the Office of
Registrar, CAT, 15, Civil Lines,
Caraves Building,
Jabalpur (MP).
5. Shri Balchand Namdeo, working as Peon
in the office of Registrar, CAT,
15, Civil Lines, Caraves Building,
Jabalpur (MP). ... Respondents

(By Advocate - Shri B.L. Silva for official respondents and
none for private respondents Nos. 4 & 5)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has
sought the following main reliefs :

"(a) to quash the impugned order No. 2-1/2000/Jabalpur/
259 dated 24.1.2001 (A-1).

(b) to direct the respondents to reinstate the
applicant in service with consequential benefits."

2. The brief facts of the case are that the applicant was working as Casual Labourer/Daily Wager in the Principal Bench of the Central Administrative Tribunal, New Delhi. Two vacancies of Peons existing in Jabalpur Bench were notified to him amongst others vide memo dated 21.12.1999. The applicant had applied for the post of Peon existing in Jabalpur Bench vide his application dated 22.12.1999. On pursuance to his application dated 22.12.1999 the post of Peon was offered to him and his willingness was asked within three days vide memo dated 10.1.2000. The applicant had communicated his acceptance of offer of the post of Peon existing in Jabalpur Bench vide his acceptance letter dated 11.1.2000. The applicant was appointed by the CAT, Principal Bench on adhoc basis without indicating any duration vide letter dated 11.1.2000 among others. The applicant was medically examined and found fit vide Civil Surgeon report dated 18.2.2000. Vide order dated 3.7.2000 the Dy. Registrar had communicated to the applicant that his period of adhoc appointment had been extended for six months beyond 19.7.2000. The applicant continuously rendered service on the post of Peon for more than one year from 19.1.2000 to 24.1.2001. Therefore his service does not come within the definition of adhoc appointment. The applicant is senior to respondent No. 4 as per length of service. It is not understood as to how respondent No. 5 has been appointed on the post of Peon on adhoc basis just before the termination of the services of the applicant when only two vacancies of Peons were notified vide memo dated 21.12.1999. However, these respondents Nos. 4 and 5 are juniors to the applicant by length of service. Vide memo dated 23.5.2000 explanation was called from the applicant as to why disciplinary action should not be taken against him for his absence from duty at 1700 hrs. on 22.5.2000. He submitted his explanation vide application dated 25.5.2000. Again vide letter

dated 5.7.2000 explanation was called within three days about his absence from duty at 1715 hrs. on 4.7.2000. The applicant submits that he has not been found guilty on all these two days. In case the Management wanted to terminate the services of the applicant, then reasonable opportunity could have been given to him under the provisions of Article 311(2) of the Constitution of India and also under the provisions of Rule 14 of CCS(CCA) Rules, 1965 and Rule 5(1)(a) of CCS(TS) Rules, 1965. Hence the termination order dated 24.1.2001 is arbitrary and is not tenable in law.

3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicant that he has rendered his services from 19.1.2000 to 24.1.2001 i.e. more than one year. His adhoc appointment also had been extended for six months beyond 19.7.2000 vide order dated 3.7.2000. Before his termination from service, two times his explanation was called for his absence from duty and on submission of his explanation he was not found guilty. It shows that the respondents wanted to terminate his services. He further argued that no notice was issued by the respondents before passing the termination order of the services of the applicant. According to Article 311(2) of the Constitution of India, Rule 14 of CCS(CCA) Rules, 1965 and Rule 5(1)(a) of CCS(TS) Rules, 1965, the termination of services of the applicant suffers from arbitrariness and therefore the termination order dated 24.1.2001 is not tenable in law. He further argued that he was appointed by the Hon'ble Chairman, Principal Bench, CAT, New Delhi, while his termination order has been passed by the Deputy Registrar, CAT, Jabalpur as per order of the CAT, New Delhi vide letter dated 18.1.2001. Hence the Deputy

Registrar is not the competent authority to terminate his services. He was a regular employee according to the rules. Departmental enquiry should have been conducted against him before termination of his services. Our attention is drawn towards the judgments of the Hon'ble Supreme Court in the case of National Buildings Construction Corporation vs. S. Raghunathan and others, 1998 SCC (L&S) 1770 and in the case of Jarnail Singh and others vs. State of Punjab and others, 1986 (2) SLR 278 and also the judgment of the Hon'ble Madhya Pradesh High Court in the case of Geeta Shrivastava vs. State of Madhya Pradesh and others, 1988 (2) SLR 389.

5. In reply the learned counsel for the respondents argued that the applicant was not appointed by the Hon'ble Chairman, Principal Bench, CAT, New Delhi but his appointment letter is issued by the Deputy Director (DOC.), Principal Bench, CAT, New Delhi vide letter dated 10.1.2000 and his termination order is also passed by the same authority. Hence it cannot be said that the termination order is passed by the authority having no jurisdiction. He further argued that the appointment of the applicant on the post of Peon at Jabalpur Bench was purely on adhoc basis as ordered vide order dated 10.1.2000. As per Clause 1 of the terms of appointment, it was specifically provided that the appointment would initially be for a period of six months or till the regular incumbents reverts the post whichever is earlier. He further argued that termination was purely a termination simplicitor and not on account of any misconduct. Hence neither the principles of natural justice nor the principles of last come first go will apply in the case of the applicant. Explanations were called in with regard to his conduct. No departmental enquiry was initiated. Hence the question of finding him guilty does not arise. The performance of the applicant prior to his appointment on adhoc basis is of no consequence. The

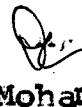
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applicant had no right to hold the post on regular basis. The applicant was not appointed under the provisions of CCS (Temporary Service) Rules, 1965. Hence the question of provisions of Rule 5(1) (a) is not attracted. The services of the applicant has been terminated by an order which has neither a stigma nor by way of a punishment. So far as the ruling cited by the applicant of S. Raghunathan & Others (supra), it does not apply in this case as the facts are different. The second ruling in the case of Jarnail Singh & Ors. (supra), the order challenged in that case is on the ground that the order of termination is passed on ^{the} misconduct. This is not ~~the~~ case in the present OA. He further argued that in the next ruling of Geeta Shrivastava (supra), termination of services of adhoc employee was by way of punishment. This is not the case in the present OA. The applicant was not terminated on the basis of any punishment.

6. After hearing the learned counsel for the parties and on careful examination of the record we find that the applicant was appointed purely on adhoc basis vide order dated 10.1.2000. Two explanations were called for from the applicant during his service period for absenting himself from his duties but on finding his explanation as reasonable and genuine, no action was taken against him and no enquiry was conducted in that matters. Hence the services of the applicant is not terminated on any stigma or by way of any punishment and is simple a termination simplicitor. We have also perused the rulings cited by the applicant. We find that they are not applicable in the present case. The respondents have not violated the Article 311(2) of the Constitution of India, Rule 14 of CCS(CCA) Rules, 1965 and Rule 5(1) (a) of CCS(TS) Rules, 1965. We also find that the appointment letter of the applicant was issued by the Deputy Director (DOC.), Principal Bench, CAT, New Delhi addressed to the Registrar, Central Administrative Tribunal, Jabalpur Bench. The appointment was not made by the Hon'ble Chairman, Principal

Bench, CAT, New Delhi. The termination order is also issued by competent person i.e. Deputy Registrar, CAT, Jabalpur Bench on direction by the CAT, Principal Bench, New Delhi vide letter dated 18.1.2001.

7. After taking into consideration the facts and law and also on perusal of the whole record, we are of the considered opinion that no arbitrary or illegal order has been passed by the respondents while terminating the services of the applicant. Thus we do not find any ground to interfere with the orders passed by the respondents and the Original Application is liable to be dismissed as having no merit. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
Judicial Member

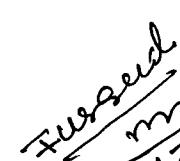

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
प्रसिद्धिपूर्ण अवधि दिनांक:—

- (1) संस्थापना उच्च न्यायालय कार्यालय, एम्पीरिक्सन, जबलपुर
- (2) अधिकारी श्री/भीमराम/कु.....के काउंसल B.L. Meo,
- (3) प्रत्यार्थी श्री/भीमराम/कु.....के काउंसल B. Darlina
- (4) कार्यालय, न्यायालय, जबलपुर ज्यापर्फिल

सूचना एवं आवश्यक कार्यवाही हेतु 
रजिस्ट्रेशन 7.6.04


17.6.04