

Central Administrative Tribunal

Jabalpur Bench at Gwalior

OA 474/2001<sup>4</sup>

Gwalior this the 30th day of October, 2003.

Hon'ble Mr. Shanker Raju, Member (J)

Hon'ble Mr. Sarveshwar Jha, Member (A)

Kok Singh Yadav

-Applicant

(By Advocate Shri - None)

-Versus-

Central Soil & Water Conservation  
Research and Training Institute  
& Another

-Respondents

(By Advocate Sh. P.N. Kelkar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

None appeared for applicant when the case was called out. OA is disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Applicant impugns notice of termination as well as order of termination dated 30.11.1998.

3. Applicant was employed as a casual labour and was accorded temporary status. On the ground that he produced a false date of birth certificate in order to secure employment his services have been dispensed with, as per terms and conditions of his service. He preferred an appeal against the termination notice, resulting in passing of the termination orders by the respondents, giving rise to the present OA. In absence of applicant's counsel the averments taken in the OA reflect that termination has been assailed to be punitive and based on misconduct and as the enquiry has been curtailed without affording reasonable opportunity to applicant and on the material collected behind the back of applicant his services have been dispensed with.

4. On the other hand respondents vehemently opposed the OA and stated that as per the terms and conditions on accord of temporary status services of applicant have been terminated after issuing him one month's notice.

5. It is further contended that the termination resorted to does not cast any stigma upon applicant and is not founded on any misconduct. The same has been on the basis of unsatisfactory performance of applicant and the misconduct is only a motive.

6. We have carefully considered the ~~xxxx~~ contentions raised by the respondents' counsel and the pleadings on record. The Apex Court in the following cases has held that a simple order of termination which does not visit a Government servant with any stigma and is not founded on misconduct and if based on conditions of service as per the terms and conditions of appointment order cannot be found fault with:

- i) State of Punjab v. Bhagwan Singh, 2002 SCC (I&S) 1092.
- ii) Pawandra Narayan Verma v. Sanjay Gandhi PGI, 2002 (1) SC&LJ 152.
- iii) Dipti Prakash Banerjee v. S.N. Bose National Centre for Basic Sciences, Calcutta, JT 1999 (1) SC 396.

7. Having regard to the above the enquiry ordered against applicant has not even proceeded by appointing an enquiry committee. We also find that apart from the alleged misconduct the performance of applicant during the period of his casual service was not satisfactory. Being a motive only the aforesaid situation would not mean that the foundation of the order is misconduct of applicant.

8. In so far as stigma is concerned, we do not find any imputation levelled against applicant or referred to in the Annexures referred to in the order of termination. As such the order is non-stigmatic.

9. In the above view of the matter and for the foregoing reasons as the termination is a simple order of termination based on unsatisfactory performance of applicant cannot be found fault with. We also find that though applicant preferred an appeal against the notice of termination

which is not provided under the rules, applicant has failed to avail the remedy of appeal-representation against the order of termination, provided under law, as such the OA is not maintainable in view of Section 20 of the Administrative Tribunals Act, 1985. The OA, therefore, fails and is accordingly dismissed. No costs.

(Serveshwar Jha)  
Member (A)

S. Raju  
(Shanker Raju)  
Member (B)

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22  
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PN Kulkarni, Adv.  
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