

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 193/99

Jabalpur, this the 3rd day of February, 2004.

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. G. Shanthappa, Judicial Member

Vyasmuni Dwivedi, aged about 40 years
s/o Shri Basant Raj Dwivedi, R/o
LIG, 1/16-B/15, Nagar, Rewa, District
Rewa, (M.P.)

APPLICANT

(By Advocate - None)

VERSUS

1. Sub-Divisional Inspector, Dakghar,
Rewa-I, 466001.
2. Pradhan Dakpal Rewa, District
Rewa, (M.P.)
3. Raj Kumar Shukla
Temporary Extra Departmental
Packer, Rewa D.S.C.
Office of Sub-Divisional
Inspector (Posts),
Rewa (MP). 486 001.

RESPONDENTS

(By Advocate - Shri Harshit Patel on behalf of Shri
S.C. Sharma)

ORDER (ORAL)

By M.P. Singh, Vice Chairman -

None is present even at the second call. As this is an old matter of the year 1999, we are disposing of the same by invoking the provision of Rule 15 of Central Administrative Tribunal (Procedure) Rules 1987, after perusing the available pleadings and hearing the learned counsel for the respondents.

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

- 8.(i) to quash the impugned termination notice dated 22.4.99(A-4).
- (ii) to quash the appointment of the Respondent No. 3 Raj Kumar Shukla Temporary E.D. Packer as being void, illegal and arbitrary.
- (iii) to direct the official respondents to allow the applicant to continue as a Temporary E.D. Packer till regular incumbent join and also to afford an opportunity to the applicant in the selection process of regular appointment.

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3. The brief facts of the case are that the applicant was appointed as a Packer vide order dated 22.1.1999 for the period from 5.5.1998 to 31.12.1998. The services of the applicant have been terminated by giving one month's notice vide respondents' letter dated 22.4.1999 (Annexure A-4). The contention of the applicant is that his services have been terminated only to accommodate Shri Raj Kumar Shukla, respondent no. 3, who has been appointed on temporary basis as Extra Departmental Packer, which act of the respondents is illegal, void and contrary to the rules and regulations. Aggrieved by this, he has filed this O.A. claiming the aforesaid reliefs.

4. The respondents in their reply^{have}/stated that the post of E.D. Packer and some other posts of EDAs are lying vacant due to the fact that a ban has been imposed by the P.M.G., Raipur w.e.f. 11.8.1998. In view of the said ban, no appointment can be made before obtaining approval from the higher authorities. The applicant's contention that he may have been allowed to continue to work as Packer is incorrect as he stands already terminated from service in accordance with Rule 6 of the P&T EDA (Conduct and Service) Rules, 1964 which provides that the services of an employee, who has not rendered three years' continuous service from the date of his appointment, shall be liable to be terminated by the appointing authority at any time without giving any notice. Moreover, the applicant has not exhausted the departmental channel of appeal as provided under Rule 10 of the Rules of 1964. The petition filed by him is therefore, liable to be dismissed on the ground of not exhausting the alternative departmental remedies available to him.

5. Heard the learned counsel for the respondents and have perused the pleadings available on record.

6. After careful consideration of the rival contentions of the parties, we find that the applicant had been appointed only on temporary basis for the period from 5.5.1998 to 31.12.1998 vide order dated 22.1.1999. We also find from the

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letter dated 17.11.1998 (Annexure R-1) that the work of the applicant has not been found satisfactory by the respondents. Since the applicant was working only on temporary basis and he has been given one month's notice before passing the termination order against him, no illegality has been committed by the respondents in terminating the services of the applicant.

7. In view of the above observation, the O.A. is bereft of merit and the same is accordingly dismissed with no order as to costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

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पञ्चिमवि अन्तर्गत

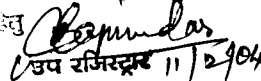
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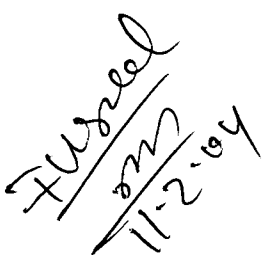
(2) आवेदन की/विही/सु.....के काउंसल S. Naegm.

(3) प्रत्यक्ष की/विही/सु.....के काउंसल SC Shatma

(4) गैरवकास, वकास, जयलपुर जयलपुर

सूचना एवं आवश्यक कार्यवाही हेतु


उप रजिस्ट्रार 11/2/04


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