

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 230 of 2000

Jabalpur, this the 23<sup>rd</sup> day of March, 2004.

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

Neeraj Kumar, Son of Shri Raghunandan  
Prasad aged 26 years, presently residing  
at H.No.60 School Pura - Prem Nagar  
Jhansi.

APPLICANT

(By Advocate - Shri A.K. Tiwari on behalf of Shri S.Yadav)

VERSUS

1. Union of India, through its Secretary  
Ministry of Water Resources New Delhi.
2. Central Ground Water Board, through  
its Regional Director, Central Ground  
Water Board, North Central Region  
Paryavas Bhawan, Block No.1, 4th  
Floor Arera Hills : Bhopal - 462 001
3. Director of Central Ground Water  
Board, Head Quarter Office,  
Central Ground Water Board, N.H.4  
Faridabad, Haryana.

RESPONDENTS

(By Advocate - Shri S.A.Dharmadhikari)

O R D E R

By G. Shanthappa, Judicial Member -

The said Original Application is filed seeking the relief to quash the order of termination Annexure A-11 and further relief to direct the respondents to reinstate the applicant in service alongwith the continuity and consequential benefits.

2. The brief facts of the case are that the applicant belongs to Kori Vashya Caste and which is a backward class. The applicant registered his name in the Employment Exchange for employment in the public service. The applicant was appointed to the post of Welder by the competent authority vide order dated 16.6.1998. Under the said order of appointment the respondents have imposed certain conditions :

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(i) The post is temporary and is at present sanctioned upto 28.2.1999, but is likely to continue. The claim of the candidate for permanent absorption will be considered in accordance with the rules and orders on the subject.

(ii) He will be on probation for a period of 2 years from the date of his appointment, which may be extended at the discretion of the competent authority. If no action is taken by the competent authority within the period of two years in respect of probation period it shall be deemed to have been extended until further orders."

The applicant reported for duty on 24.6.1998. On the basis of some complaints regarding the genuineness of the experience certificate the services of the applicant had been terminated with notice. As on the date of termination of the services of the applicant, the applicant did not complete his probation for two years. The impugned order dated 17.11.1999 has been passed by respondents in a unlawful manner. The applicant has challenged the said order of termination on the ground that without enquiry, termination of the services of the applicant is illegal and against law. The same is liable to be quashed and the reliefs prayed in the OA is liable to be granted.

3. The respondents have filed their reply denying the averments made in the Original Application. As per Sub Clause (iii) of Clause-2 and Clause-5 the appointment of the applicant can be terminated at any time without assigning any reasons which is admitted by the applicant. Admittedly the applicant did not complete his probation period. According to the terms of the appointment the respondents have exercised their powers and issued the impugned order of termination. The respondents came to know that some irregularities occurred in issuing the appointment order to the applicant, in the respondent's office. The said information appeared in the newspaper. The enquiry was conducted and it was found and established that the experience certificate produced by the applicant is a false

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one and he could manage to get his appointment on the basis of this false certificate. The applicant managed to get the experience certificate and it was recorded by the Manager of M/s. Major Nanke Petrol Pump <sup>from</sup> ~~and~~ <sup>sp.</sup> the said Petrol Pump that the experience certificate was not issued by his firm. The person who has signed the certificate is not an employee of the Petrol Pump, but is attached to the mobile welding unit adjacent to the Petrol Pump. The rubber stamp of M/s. Major Nanke Petrol Pump has been used without any authority from the management of the firm. The experience certificate dated 30.10.1997 is found to be false and invalid. The services of the applicant has been terminated as per rule and in accordance with the conditions laid down in the appointment order. Obtaining false documents and also creating documents is a major offence. The mistake has been found out by conducting an enquiry. Hence the services of the applicant has been terminated and there is no illegality or irregularity committed by the respondents while issuing the impugned order.

4. Heard the learned counsel for the parties, and perused the records carefully.

5. The admitted facts are that the applicant was appointed on certain terms and conditions as per Annexure A-8. The applicant has accepted the terms and the conditions. As on the date of his termination, the applicant had not completed his probation period and his services were not confirmed. While entering into the service the applicant has submitted his experience certificate. Subsequently the respondents came to know that the said experience certificate is fabricated one. The applicant himself has created the said document. The respondents have ascertained from the persons who have issued the said certificate. The Manager of the said Petrol Pump submitted that the person who has

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signed the certificate is not an employee of the said Petrol pump and the seal of the said Petrol Pump has been misused without any authority from the management of the Firm.

5.1. The short question involved in this case is whether the services of the applicant can be terminated without enquiry or without issuing notice. The main stand taken by the respondents/is that the services of the applicant can be terminated as per the terms and conditions provided in the and appointment order/as the applicant has not completed his two years of probation period.

5.2. The applicant has cited the following judgments :

"a) V.P. Ahuja Vs. State of Punjab and Others, (2000) 3 SCC 239.

b) New India Assurance Co. Ltd. Vs. R. Srinivasan, (2000) 3 SCC 242.

c) Chandra Prakash Shahi Vs. State of U.P. and others, (2000) 5 SCC 152.

d) Satpal And Another vs. State of Haryana and others, (2000) 5 SCC 170.

e) R.D. Saxena and others Vs. State of U.P. and another, 1969 SLR 252."

The judgments cited by the applicant relates to earlier period and are not applicable to the present case, as now in view of the law laid down by the Hon'ble Supreme Court in the case of Shailaja Shivajirao Patil vs. President, Hon'ble Khasdar Ugs Sanstha and others, 2003 SCC (L&S) 763, the relief claimed by the applicant cannot be granted. The Hon'ble Supreme Court in this case has also relied on an earlier judgment in the case of Parshotam Lal Dhingra Vs. Union of India, AIR 1958 SC 36. The relevant paragraph of the aforesaid judgment is extracted below :

"2.....  
The order of appointment itself unequivocally indicated the tenure of appointment, and that the appointment could be terminated at any time without notice. The question whether an order of termination of a probationer or temporary employee could be held

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stigmatic came up for consideration before a Bench of this Court, where one of us (Pattanaik, J.) was a party, since reported in Pavanendra Narayan Verma v. Sanjay Gandhi PGI of Medical Sciences. In that case also, an enquiry had been held prior to the order of termination. On examining the entire gamut of case-law right from Dhingra case the Court came to the conclusion that a mere holding of an enquiry does not ipso facto make the order of termination penal in nature, once the employer wishes not to continue the enquiry in exercise of his right in accordance with the terms of appointment. The Court held that the enquiry held prior to the order of termination cannot turn an otherwise innocuous order into one of the punishment. An employer is entitled to satisfy itself fairly as to the truth of any allegation that may have been made about the employee concerned. Bearing in mind the decision of this Court in the aforesaid case, and on examining the facts and circumstances together with the impugned order of termination, we see no justification for our interference with the impugned order, as in our view the impugned order cannot be held to be stigmatic in any way. This appeal accordingly fails and is dismissed."

6. The facts of the present case and the facts of the judgment of the Hon'ble Supreme Court referred to above are similar. Accordingly, applying the principles laid down by the Hon'ble Supreme Court in the aforesaid judgment, the reliefs claimed by the applicant in this original Application cannot be granted. Hence Original Application is dismissed.

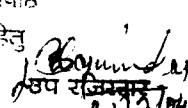
No costs.

  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

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पृष्ठांकन सं ओ/व्या.....जवलपुर, दि.....  
पुनिलिखि दात्ते दिना.....  
(1) राज्य न. विधि विभाग नाम पुनिलिखि. जवलपुर  
(2) राज्य न. विधि विभाग के काउंसल Sanjay & youan  
(3) राज्य न. विधि विभाग के काउंसल  
(4) अध्याद, नेहर, जवलपुर काउंसल  
स्वयं एवं वारायक कार्यकारी हेतु

  
S.A. Dhermalikai  
मुख्य राज्यसभा  
31/3/04