

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A. No. 41/2000

Jabalpur this the 13th day of November, 2003

HON'BLE SHRI SARWESHWAR JHA, MEMBER (A)
HON'BLE SHRI BHARAT BHUSHAN, MEMBER (J)

Ka. Harshita Rao,
D/o Shri S.K. Rao,
C/o Mrs. P. Rao,
Main General Hospital,
Hoshangabad.

... Applicant

(By Advocate : Shri S.K. Nagpal)

Versus

1. Union of India
Through Secretary to the
Government of India,
Ministry of Defence,
New Delhi.
2. General Officer Commanding
M.P. B & C Area,
Jabalpur Cantt.
3. Commandant
AEC Training College and Centre
Pachmarhi (M.P.) - 461 881. ... Respondents

(By Advocate : Shri S.A. Dharmadhikari)

ORDER (ORAL)

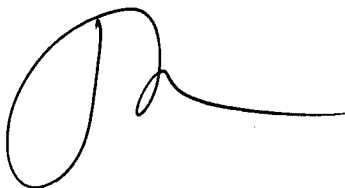
Hon'ble Shri Bharat Bhushan, Member (J):

The challenge before us in this Original
Application is Termination Order dated 30.11.1999
passed by the Respondent No. 3 thereby terminating
the services of Ms. Harshita Rao, Librarian in
the AEC Training College and Centre, Panchmahli.



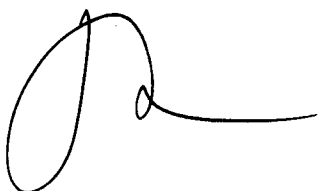
2. The case of the petitioner is, that she was appointed to the post of Librarian after selection in AEC Training College and Centre, Panchmarhi vide Appointment Order dated 28th May 1998 issued by Respondent No. 3. And, she joined her duties on 8.6.1998. As per the appointment letter, the post was permanent but the appointment of the applicant was made on temporary basis for the present.

3. The applicant has further stated that she had been performing her duties sincerely and honestly and she was the only female employee working in the Library. She alleged that there were two other male employees working in the Library namely Naib Subedar SCM Tripathi and Haveldar Devi Singh who were causing sexual harrasement to her by their vulgar and obscene language and consequently the applicant had been under mental tension. The applicant made verbal complaints to the higher authorities but it did not bore any results. And, ultimately she remained under constant mental tension and fell sick in the month of October, 1999, and for this reason, she was advised medical rest initially from



13.10.1999 to 1.11.1999 which was further extended till 10.12.1999. For this, she submitted the leave application duly supported by Medical Certificate for the said period. But during this period, she was served with a warning letter dated 15.10.1999 by Respondent No. 3 alleging that he had received reports that her performance was not found satisfactory and her attitude towards work needs improvement and that she had been taking leave frequently without any genuine reasons. And, she was advised and instructed to show improvement, failing which administrative action would be taken against her. It is alleged that the letter was silent as to in what manner her work was unsatisfactory, and what she was expected to do what she had failed to do. It is alleged that to the utter surprise of the applicant, during this period while she was sick and undergoing treatment, she was served with the order of termination dated 30.11.1999. Hence, she has assailed the termination order without giving her show cause notice, without charge sheeting her or without holding Departmental enquiry as illegal and against all principles of natural justice.

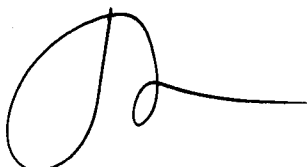
4. The respondents in their reply have, however, refuted the allegations of the applicant.



Their case is that the applicant has been appointed on purely temporary basis on the post of Librarian by order dated 28.5.1999 (Annexure A2) on probation for the period of 2 years. The appointment may be terminated any time on 1 month notice given either side viz., the appointee or the appointing authority, without assigning any reason.


5. It is alleged that the performance of the applicant was very poor and the Respondent No. 3 has issued several warning letters to the applicant. The applicant had also absented from the duty without obtaining any leave/previous sanction/permission from the Higher authority.

6. The allegation of sexual harrasment have also been denied as being baseless and malafide. It is alleged that the applicant habitually absented herself from duty without leave. They have also placed reliance upon such absent reports marked as R-1 to R-5. Hence, their case is that the termination order had rightly been passed by the Respondent No. 3 under the provisons of Law and issued under sub Rule 1 of Rule 5 of the CCS Rules, 1965.



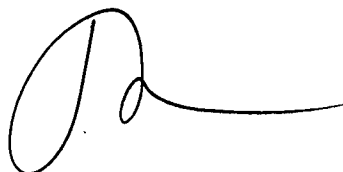
7. Heard the arguments of the learned counsel for the parties and perused the material on record. The only point for determination before us as to whether the Respondents could resort to inflicting the extreme penalty of the termination of service of the applicant on account of the fact that her appointment was made purely temporary and that she was governed by the Central Civil Services (Temporary Services) Rules, 1965 as indicated in the Appointment Letter dated 28.5.1998 (Annexure A-2) itself. For this purpose the appreciation of the material available on record becomes very important. In this context, we have noticed that the applicant on the one hand had submitted two Medical Certificates i.e. one dated 13.10.1999 (Annexure A-3) and the other dated 10.11.1999 (Annexure A-4) thereby advising her medical rest for a total period from 13.10.1999 to 10.12.1999. And, the respondents on the other hand to prove that the applicant was irregular in her job was a habitual absentee had relied upon reports marked as R-1 to R-5.

8. From the above observations, it becomes apparent that the Respondents ignoring the Medical Certificate issued in favour of the applicant



and even without verifying their authority or otherwise proceeded to take punitive action of termination of service of the applicant on the basis of document R-1 to R-5 which were found to be incriminating against her for which she was not rendered an opportunity to defence or explain, because extreme penalty of termination of her services was taken on 30.11.1999 without waiting for her to join her duties after medical leave on 11.12.1999.

9. For the reasons discussed above, we cannot agree with the contention of the Respondents that this is a case of discharge simplicitor. And, the Respondents could not have legally terminated the services of the applicant without holding a proper departmental enquiry after charge sheeting her. The Central Civil Service (Temporary Service) Rules, 1965 are not to be interpreted in the manner the respondents are interpreting. These do not confer as authority to terminate the services of a temporary employee at any stage of service whatsoever by simply giving one month notice if there are specific allegations of professional incompetence, lack of interest




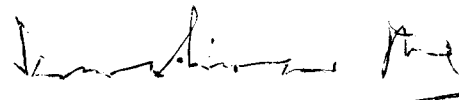
in the profession, absenting from duty etc.

etc.

10. That being the case, we are inclined to quash the termination order dated 30.11.1999 (Annexure A-1) issued by the Respondent No. 3, and the consequential benefits will follow.

11. There is no order as to costs.


(BHARAT BHUSHAN)
MEMBER (J)


(SARVESHWAR JHA)
MEMBER (A)

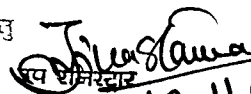
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पृष्ठांकन सं ओ/न्या.....जयलपुर, दि.....
परिधिदिपि

- (1) सविन, उता २००३, २००३, २००३, जयलपुर
- (2) आलेखन, २००३, २००३, २००३, के काउंसल SK Nagpal, Adv.
- (3) काउंसल, २००३, २००३, २००३, के काउंसल SA Dharmachari, Adv.
- (4) काउंसल, २००३, २००३, २००३, के काउंसल

सूचना एवं आदेशों का कार्यवाही हेतु


19.11.03