

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 1477/2003

New Delhi this the 29<sup>th</sup> day of March, 2004

Hon'ble Shri Sarweshwar Jha, Member (A)  
Hon'ble Shri Bharat Bhushan, Member (J)

Shri Narender Kumar Singh  
S/O Shri S.P.Singh,  
R/O Block No.B-1, House No.105,  
Gali No.6, East, Delhi-110092  
last employed as Asstt. Director,  
H.O. Office of Textile Commissioner,  
Ministry of Textile, Govt.of India,  
CGO Complex, 48 New Marine Lane,  
Post Box No.115011, Mumbai-20

..Applicant

(By Advocate Shri Sonpal Singh )

VERSUS

1. Govt. of India through Ministry  
of Textiles, Udhyog Bhawan,  
New Delhi.
2. Textiles Commissioner, Ministry of  
Textiles, Govt.of India, CGO Complex,  
48, New Marine Lines, Mumbai-20

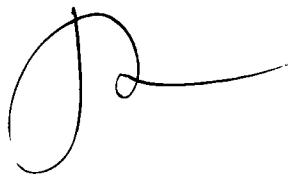
..Respondent

(By Advocate Shri B.S. Jain )

O R D E R

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

The applicant was selected for the post of Assistant Director (Grade II) (P&D) by the UPSC and was appointed vide order dated 24.12.1996 initially under probation for a period of two years. He resumed his duties at Power Loom Service Centre, office of Textiles, Government of India, Kishan Garh (Ajmer, Rajasthan) on 27.2.1997. His period of probation was extended initially for a period of one year w.e.f. 27.2.1999 and then subsequently again for further period of one year w.e.f. 27.2.2000. It is alleged



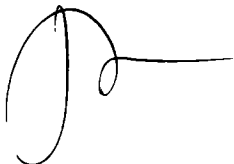
14

that in the intervening period i.e. on 5.11.1999 a departmental enquiry was ordered against him. And ultimately punishment of termination from service was inflicted upon him vide order dated 20.2.2001.

2. He challenged this order of punishment by filing an appeal before the appellate authority i.e. Secretary (Textile), Ministry of Textile, Mumbai. And since the appellate authority did not dispose of the appeal for considerable time, applicant filed Original application No. 2035/2002 before the CAT (PB), New Delhi and the Tribunal vide order dated 5.8.2002 directed the respondent No.2 to decide the appeal within a period of 30 days. Consequently, the appeal was decided in favour of the applicant to the extent that the applicant was ordered to be reinstated in service and was again ordered to be kept on probation as per the Rules. And it was further observed that on reinstatement and after completion of the probation period, the appointing authority i.e. the Textile Commissioner, Mumbai was to assess the work and conduct of the applicant to ascertain his suitability for the post he was holding.

3. It would be useful here to re-produce the concluding three paras of the appellate authority order dated 19.5.2003 passed in the case:

"5. However, after taking into consideration the above facts, the undersigned considers that the punishment of removal from service of Shri N.K.Singh is severe and not commensurate with the charges. Hence, in



exercise of powers conferred on the undersigned under rule 27 of CCS (CCA) Rules, 1965, I allow the appeal to the extent that Shri N.K.Singh may be re-instated in service and again be kept on probation as per extant rules. On re-instatement and after completion of the probation period, the Appointing Authority, Textile Commissioner, Mumbai will assess the work and conduct of Shri N.K.Singh to ascertain the suitability for the post he is holding.

6. As the misconduct of Shri N.K.Singh has been proved, the period from 20.2.2001 till the date of reinstatement will be treated as dies non and no salaries and allowances will be paid to him.

7. A copy of this order has been endorsed to the Textile Commissioner, Mumbai.

Shri N.K.Singh is advised to contact the office of the Textile Commissioner, Mumbai further in the matter".

4. In the backdrop of what has been mentioned above, it becomes important to reproduce here below the reliefs sought by the applicant in this OA.

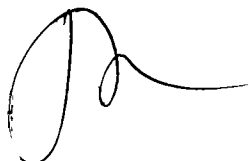
"8 (i) The direction may be pleased given to the respondent No.1 and 2 for not extending the probation period further as the probation period is ended already after completion of two years on 26.2.99 and further on 26.2.2001 as per extend rules.

(ii) The directions may be please given to the respondent no.1 and 2 to pay salaries, allowances and increments etc.due w.e.f. 20.2.2001 till reinstatement in service.

(iii) The directions may be please given to award the cost of O.A.No.2035/2002 and this Application to the tune of Rs.20000/-

(iv) Any other award or direction may be pleased given in favour of the applicant.

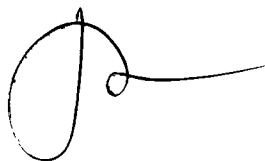
5. Heard the arguments of both the learned counsel for the parties and perused the records. Learned counsel for the applicant while making his submissions has contended very vehemently that the probation period of



the applicant had been extended from time to time in a illegal manner. His submission is, that, that the applicant should be deemed to have been confirmed on the expiry of initial period of two years of probation. In support of the deemed confirmation on the expiry of probation period, the learned counsel has placed reliance upon the following judgements of the Hon'ble Supreme Court.

- (1) **The Director of Public Instructions, Punjab Vs. Des Raj** ( AIR 1968 SC 1210)
- (2) **Om Prakash Maurya Vs. U.P. Co-operative Societies Sugar Factories Federation, Lucknow and Ors.** (AIR 1986 SC 1844)
- (3) **State of Gujrat Vs. Akhilesh C. Bhargav and Ors.** (AIR 1987 SC 2135)
- (4) **Dayaram Dayal Vs. State of M.P. and Ors.** ( AIR 1997 SC 3269)
- (5) **Wasim Beg Vs. State of U.P. and Ors.** ( AIR 1998 SC 1291)
- (6) **Karnataka State Road Transport Corporation and Others Vs. S. Manjunath and Ors** (2000 5 SCC 250)

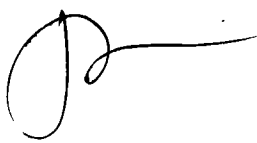
6. On the other hand, the learned counsel of the respondents has submitted that the competent authority i.e. the Textile Commissioner had reviewed the conduct and performance of the applicant from time to time and since he was not found fit for confirmation so his probation period was extended from time to time and the applicant had also been informed that his appointment to the said post was liable to be terminated at the descretion of the appointing authority without any notice



27  
during the normal as well as extended period of his probation.

7. As regards his final order of reinstatement pursuant to the acceptance of the appeal it has been submitted that the applicant in spite of the order issued about a year back had yet not reported for duty at the Head Office, Mumbai and thus his vehement contention is that the applicant was an absolutely unwilling worker and was not interested to join the duty. His submission is that though the applicant had vaguely informed by writing a letter dated 20.7.2003 that he was sick and would be resuming his duty as and when declared him fit by the Doctor but till date neither he has produced any medical certificate nor he has been able to tell the nature of his illness which was preventing him from joining his duty. Even during the course of arguments, the learned counsel has not been able to dwell upon this subject as to under what circumstances even after the acceptance of the appeal and passing of the order of reinstatement, he has not joined his duty. And even the nature of illness if any has also not been explained.

8. Though the learned counsel of the applicant during the course of arguments has contended that he is entitled to full salaries during the period yet he has neither challenged this order nor he has been able to state <sup>as to</sup> under what circumstances the applicant is entitled to salary and allowances especially when till date he has

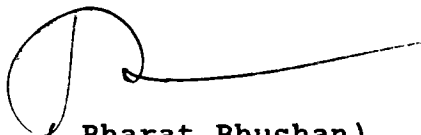



8

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not resumed his duty and has also not explained the circumstances prevailing, if any, preventing him from joining his duty.

9. In the result of our aforesaid discussions, we find that the application is devoid of any merit and hence the same is hereby dismissed. No order as to costs.

  
( Bharat Bhushan )  
Member (J)

  
( Sarweshwar Jha )  
Member (A)

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