

Dr. S. Chaturvedi vs Central Railway Through General ... on 30 July, 1953

Equivalent citations: AIR1954ALL122

ORDER

1. The applicant was a temporary substitute working in a hospital at Jhansi. There was a case started against him for bribery and he was suspended on 11-8-1949. He was convicted by the Magistrate on 3-2-1951, but was acquitted on appeal by the learned Sessions Judge on 7-4-1952. Even before his conviction by the Magistrate, however, on 2-9-1949, the railway authorities terminated the services of the applicant while he was under suspension.

2. The applicant being a temporary servant and not having been appointed either permanently or for a definite period his services could be terminated at any time in accordance with the terms of his appointment, and, if his service was so terminated he cannot claim against his employer that he had a right to continue in service and that his removal from service was, therefore, illegal. There is nothing in the application or in the affidavit to show how the order dated 2-9-1949, terminating the services of the applicant was in contravention of the terms under which he was appointed.

Learned counsel has relied on certain suspension rules for railway servants. The relevant rule is quoted in the supplementary affidavit and is as follows:

"1711 -- Suspension -- (a) A railway servant shall be placed under suspension when he is arrested or committed to prison pending trial by a Court of law, and he shall remain under suspension until judgment is delivered by the Court, unless in the event of his release on bail, the authority competent to suspend him decides to allow him to resume duty pending decision of the Court."

Learned counsel's argument is that this rule means that during the continuance of the suspension an employee cannot be removed from service. This interpretation put on the rule is clearly wrong.

It may be that in a case where the trial has been protracted the period of service can come to an end during the pendency of the trial even to the case of a permanent employee e.g. an employee may attain the age of 55--if that is the age of retirement in that service--and the rule does not provide that even though he may have attained the age of 55 the employer must grant him extension and must not terminate his service so long as the trial has not ended. The rule is only a guide to railway authorities as to what is to happen to an employee who was charged with a criminal offence and how he is to be dealt with after he has been convicted or acquitted. This rule has no bearing on the case before us nor can it be said that it in any way affects the order dated 2-9-1949, terminating the services of a temporary servant.

3. As we are dismissing this application on the merits we are not going into the question whether

this Court can entertain this writ petition against the Central Railway at Bombay.

4. The application is dismissed.