

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1536 OF 2002

Shri Rajesh Tukaram Pawar	.. Petitioner
Vs.	
The Union of India and ors.	.. Respondents

Mr.Sandeep Marne, for the Petitioner.
Mr.D.P. Singh i/b Mr.G.Hariharan, for Respondents.

**CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 02nd FEBRUARY, 2018

ORDER (PER M.S.KARNIK, J.) :

1. The petitioner's challenge under Article 226 of the Constitution of India in this Petition is to an order dated 10/08/2001 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (for short 'Tribunal') in OA/766/1996. Before the Tribunal the petitioner prayed for quashing and setting aside the order dated 04/07/1996 terminating services of the petitioner.

2. The petitioner worked as a Helper with the respondents. The petitioner also worked as an unskilled labourer on daily wages from 14/09/1992 upto 30/10/1992. On 25/11/1993 a notification was issued by the respondents inviting applications from the departmental candidates for filling up 20 posts of Helper Grade III. On 15/06/1994 the petitioner was selected after written test and viva voce and appointed as a Helper Grade III. The petitioner was appointed on temporary basis. The letter of appointment mentioned that candidates will be on probation. By an order dated 04/07/1996 in terms of proviso to sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965, services of the petitioner were terminated and he was paid one month's salary. The said termination was challenged by the petitioner before the Tribunal by filing OA. The Tribunal was pleased to dismiss the OA. Hence this Petition.

3. Learned Counsel for the petitioner assailing the order of the Tribunal contended that the termination of the

petitioner is punitive in nature. According to him there was no concealment in his application form of any material information while seeking employment. Learned Counsel submits that merely because the petitioner was not appointed as a candidate sponsored from the Employment Exchange in his earlier stint as casual labourer, this by itself did not preclude him from being considered and appointed for this post because he was really a departmental candidate. Once he has been a departmental candidate, the question of his not being sponsored by the Employment Exchange does not arise. Learned Counsel for the petitioner relied upon the decision of the Apex Court in the case of **Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and ors. 1996 Supreme Court Cases (L&S) 1420** in support of his contention that restricting the selection only to the candidates sponsored from the Employment Exchange was not proper. He also relied upon the decision of the Apex Court in the case of **Union of India and ors. Vs. N.Hargopal and ors. (1987) 3 Supreme Court Cases 308** in support of his contention. Learned Counsel therefore

submits that merely because the petitioner's name was not sponsored by the Employment Exchange was no ground to terminate his services.

4. Learned Counsel for the respondents on the other hand supported the order passed by the Tribunal. He invited our attention to the findings recorded by the Tribunal in support of his submission.

5. Heard learned Counsel. We see no error in the view taken by the Tribunal. The Hon'ble Supreme Court in the case of **Excise Superintendent Malkapatnam, Krishna District, A.P** (*supra*) has held that the Employment Exchanges (Compulsory Notification of Vacancies) At (31 of 59) does not oblige any employer to employ those persons only who have been sponsored by Employment Exchange. In the present case, notification dated 25/11/1993 itself mentions that the applications are invited from the departmental candidates on or before 15/12/1993 who possess qualification mentioned in the

notification. The petitioner applied on 14/12/1993. It is not disputed that as on the date of the notification, the petitioner was not working on daily wages. He had worked upto March 1993. The notification invited applications from the departmental candidates. In the facts of the present case we do not find any irregularity in the procedure adopted by the respondents for carrying out selection process from the departmental candidates sponsored by the Employment Exchange. The petitioner was not sponsored by the Employment Exchange. The petitioner was appointed on temporary basis. In this view of the matter, if the respondents proceeded to terminate the services of the petitioner, it cannot be said that the order is punitive or illegal.

6. We do not find any infirmity in the view taken by the Tribunal in refusing to interfere with the order terminating services of the petitioner. Consequently Writ Petition is dismissed. Rule is discharged with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)