

PETITIONER:
SHRI HUKAM CHAND KHUNDIA

Vs.

RESPONDENT:
CHANDIGARH ADMINISTRATION AND ANR.

DATE OF JUDGMENT 09/10/1995

BENCH:
RAY, G.N. (J)
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RAY, G.N. (J)
NANAVATI G.T. (J)

CITATION:
1995 SCC (6) 534 1995 SCALE (6)125

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

The order of termination of the service of the petitioner was challenged by filing an application under Section 19 of the Administrative Tribunal Act, 1985 before the Central Administrative Tribunal, New Delhi. Such application has been dismissed by the impugned order. The applicant was appointed Judge, Chandigarh, vide order dated March 17, 1982. He was continuing in temporary service on probation but it appears that his service was not found satisfactory and as a matter of fact on a number of occasions he was found by the successive judicial officers under whom the applicant was working that his integrity was questionable. Considering his service records, the temporary service of the applicant has been terminated.

Mr. P.P. Rao, the learned senior counsel appearing for the petitioner has submitted that if termination has in fact been effected by way of punishment, the real purpose of the order and not the outer form of it, is required to be looked into by piercing the veil. He has submitted that if on the score of misconduct, the service, is terminated without holding by departmental proceeding and giving the petitioner a chance of showing cause, the order of *parte* termination of service on the ground of misconduct is illegal and void. Even in the case of temporary service, the provisions of Article 311 of the Constitution of India is applicable. In support of such contention, reference has been made to the decision of this Court in *Jarnail Singh and Ors. etc. versus State of Punjab* (1986 (2) SCR 1022). It, however, appears to us that no discriminatory treatment has been meted out to the petitioner as was done to the employee concerned in the said decision. It appears that the service of the petitioner was found unsatisfactory for the reasons indicated hereinbefore. Since the petitioner was holding a temporary service and was on probation, an order of termination simpliciter has been passed without attaching any stigma against him. As the service records were found

unsatisfactory, the termination order cannot be held arbitrary and dapricious. In the aforesaid facts, we do not thing that in reality an order of punishment has been passed against the petitioner in the clocks or pretence of termination simplicitor without holding any departmental proceeding thereby violating. Article 311 of the Constitution. We therefore. find no merit in this petition and the same is dismissed.

JUDIS