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K.V. KRISHNAMANI

v.

LALIT ACADEMY

MAY 10, 1996

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[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Service Law:*

C

*Probationer—Termination of services—Driver—Appointment on ad hoc basis—Later put on probation—During probation services terminated as not found satisfactory—Termination order challenged for failure of Department to conduct inquiry—Held, the very object of probation is to test the suitability and if the appointing authority finds that the candidate is not suitable it certainly has power to terminate services of the employee—Reasons mentioned constitute motive and not foundation for termination of services—Order of the High Court dismissing the writ petition does not suffer from any error of law.*

D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9058 of 1996.

E

From the Judgment and Order dated 30.4.91 of the Delhi High Court in C.W.P. No. 3695 of 1990.

S. Menon for Pravir Choudhary for the Appellant.

K.V. Mohan for the Respondent.

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The following Order of the Court was delivered :

Leave granted.

We have heard learned counsel on both sides.

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This appeal arises out of the order of the Delhi High Court in Writ petition No. 3695 of 1990 made on April 30, 1991. The appellant was appointed initially on ad hoc basis on March 3, 1987 and thereafter with a view to regularise his services, he was put on probation. During probation, his services having been found to be not satisfactory, were terminated by proceedings dated December 1, 1989. The appellant came to challenge the

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same by filing writ petition in November 1990 which was dismissed by the High Court. Thus this appeal by special leave. A

It is contended by the appellant that since the averments made in the counter would constitute foundation for dismissal for misconduct, an enquiry in this behalf was required to be made. On the other hand, it is contended by the respondent that during the probation the appellant did not acquire any right to the post. If on being found suitable he was regularised, only then he would have acquired the right to continue in the post. During probation, it was found that his services were not satisfactory and reasons were given in support thereof. Thus they do not constitute foundation but motive to terminate the services. We find force in the contention of the respondent. They have explained that the driving of the staff car was not satisfactory and that, therefore, they have terminated the services of the appellant during probation. The very object of the probation is to test the suitability and if the appointing authority finds that the candidate is not suitable, it certainly has power to terminate the services of the employee. Under these circumstances, it cannot but be held that the reasons mentioned constitute motive and not foundation for termination of service. Therefore, we hold that the High Court has not committed any error of law. B C D

The appeal is accordingly dismissed. No costs. E

R.P.

Appeal dismissed.