

(1982) 07 DEL CK 0016

In the Delhi High Court

Case No : Civil Writ Appeal No. 1739 of 1981

Amar Nath Bhatia

APPELLANT

Vs

Trade Fair Authority of India and Others

RESPONDENT

Date of Decision : 29-07-1982

Acts Referred:

Citation : (1982) 22 DLT 337 : (1982) 2 SLJ 294

Hon'ble Judges : S.B. Wad, J

Bench : Single Bench

Advocate : E.X. Joseph, Raj Panjwani and Raj Panjwani, for the Appellant;

Judgement

S.B. Wad, J.

(1) This petition is directed against the order of the removal of the petitioner from service passed on 7-4-1981 and the order dated 6-6-1981 rejecting his appeal.

(2) From 1956 to 1977 the petitioner was working in the office of the Accountant General, Commerce, Works and Miscellaneous, Government of India. On 1st March, 1977 he joined the Trade Fair Authority of India (referred to in the judgment as an Authority) as an S.A.S. Accountant. On 14-7-1978 he was permanently absorbed in the service of the Authority "in public interest". When he was in the Central Government service he was the President of the Staff Association in the Accountant General's office. As an officer in the Authority he was elected as a General Secretary of the Officers' Association. At the relevant time he was working as a General Secretary of the said Association. On 17-2-1981 a departmental enquiry was started against him under Rules 27 and 28 under the Trade Fair Authority of India Employees (Conduct, Discipline and Appeal) Rules. It may be stated that the said rules are not the statutory rules as the Trade Fair Authority of India is not a statutory Corporation but a Company registered under the Companies Act as a Government company. The Article of charge supplied to the petitioner reads :

"THAT a demonstration was held on the 3rd February, 1981 by some of the Employees of the Trade Fair Authority of India in Office premises in which inflammatory speeches were made and defamatory slogans were shouted. Chairman and some other Officers of the Tfai were criticised. Shri A.N. Bhatia was one of the speakers. A news item appeared to this effect in the Patriot dated the 4th February, 1981. Shri A.N. Bhatia's action comes under the definition of "misconduct" as defined in the Trade Fair Authority of India Employees" (Conduct, Discipline and Appeal) Rules. This relates to Rule 5(6) regarding willful insubordination and Rules 5(21) regarding meetings, demonstrations, slogans shouting etc. within the premises of the Authority without permission of the competent Authority i.e. Chairman and Rule 5(20) commission of any act subversive of discipline or of good behavior. He, being an Officer of the Authority has also acted in a manner prejudicial to the interest of the Authority. Shri A.N. Bhatia has, Therefore, violated Rule 5(6), 5(5), 5(20) and 5(21) of TFAI Employees" (Conduct, Discipline and Appeal) Rules."

The said charge-sheet was amended later on to clarify that the demonstration was held on 5-2-1981 (and not on 3-2-81) and the report in Patriot appeared on 6-2-81 (and not on 4-2-81). On 25-2-81 the petitioner called upon the Managing Director of the Trade Fair Authority of India to furnish a copy of the rules under which he was charged and requested for ten days time after the supply of the copy for furnishing his Explanation .He further stated that the specific orders which are deemed to have been violated by him within the meaning of the said rules should be furnished to him. He then stated that he did not organise any meeting or demonstration and did not indulge in slogan shouting in any manner nor did he do anything which can be construed to be subversive of discipline or of good behavior. The Authority appointed one Shri S.C. Verma, as an Inquiry Officer. The Inquiry Officer directed the petitioner to be present on 17th March, 1981, for conducting the enquiry. It is an admitted fact that the copy of the said ^ rules was not furnished to the petitioner. It may be noticed that being non setatutory rules there is no presumption of the knowledge of the rules attaching to petitioner. It is also admitted that neither the documents relied upon nor the list of witnesses was furnished to the petitioner as required by Rule 27.

(3) On 17-3-1981 the petitioner presented himself before the Inquiry Officer and requested for some time to file a written statement in defense. He was not permitted to do so but instead his oral statement was recorded. On behalf of the Authority no documents were produced nor any witnesses were examined. The inquiry was closed on 17-3-1981 itself. On 19-3-1981, that is, on the 3rd day after the enquiry was held the Inquiry Officer made his report. The Inquiry Officer held that although the petitioner did not plead guilty, guilt of taking part/ addressing the meeting was proved against the petitioner and since he has expressed the regrets and assured of good behavior in future, it was for the disciplinary authority to consider whether a lenient view can be taken. The short report of the Inquiry Officer reads as follows:

" THE following charges were leveled by the management against Shri A.N. Bhatia Assistant Director (under suspension) for his actions on 5-2-1981 :-

(I) Acting in a manner prejudicial to the interest of the Authority. (ii) willful insubordination or disobedience, whether or not in combination with others of any lawful and reasonable order of his superior. (iii) Commission of any act subversive of discipline or of good behavior .(iv) Holding meetings, demonstrations, slogan shouting etc. within the premises of the Authority without permission of the Chairman.

2.The first hearing to inquire into charges took place in the TFA's warehouse on 17-3-81 at 3-30 p.m. When Shri Bhatia was asked whether he pleads guilty of the above charges, he said "I plead not guilty" and gave a statement. While explaining the position in his statement he elaborated :- (i) that he did not organise any meeting/demonstration and also did not indulge in any inflammatory speech and slogan shouting on 5-2-1981. He further agreed and narrated the circumstances under which he was forced to speak in the meeting. He mentioned that at about 1.50 P.M. on 5-2-1981 he was coming to office building from Pragath Maidan and already a meeting of staff association was going on, in the compound of Administration Block. He said that at that time he was compelled and forced to address the meeting in his capacity as General Secretary of the Officer's Association and in the meeting he stated as under :-

"That the officer association has not taken any decision on your demand/stand and I also advised them to be peaceful and adopt cooperative attitude with the management" :

(II) In this statement he has also expressed his sincere regrets to the Chairman and have once again assured his loyalty for the Chairman and good behavior in future.

(III) He has also assured that in future he will not take active part in the association activities.

3.Although Shri A.N. Bhatia did not plead guilty but from his Explanations it is evident that he was made to address a meeting on 5-2-81 which he should have resisted. As such he is guilty of taking part/addressing in meeting.

4.As he has expressed, (i) his sincere regrets for his conduct, (ii) assured not to take active part in the association activities, (iii) shall remain loyal to the organisation and (iv) assured for good behavior in future, it is for consideration whether a lenient view can be taken. sd/- (S.G. VERMA) Inquiry Officer 19-3-81.
"

(4) On 7th April, 1981 the Managing Director passed the impugned order of removal. Relevant portion of the order reads :

"ON a careful consideration of the enquiry report aforesaid and having regard to all the facts and circumstances of the case, the undersigned agree with the

findings of the Enquiry Officer and holds that the articles of charge are proved. The undersigned has Therefore come to the conclusion that Shri A.N. Bhatia is not a fit person to be retained in the TFAI's service and decided that a penalty of removal from service should be imposed on him. Accordingly the penalty of removal from service is hereby imposed on Shri A.N. Bhatia with immediate effect."

The petitioner filed an appeal against the said order of removal. The appeal was rejected on 6/9-6-81 by the General Manager. It may be stated that the order of removal as well as the order rejecting the appeal are non-speaking orders.

(5) The counsel for the petitioner submits that the charge-sheet was vague as no specific factual allegations are made in the article of charge except that he addressed the meeting. That pertained only to a charge under Rule 5(21) of holding meetings, demonstrations etc. There were no specific allegations as regards the charge of willful insubordination (Rule 5(6)). So also there was no specific factual averment in support of the charge of acting subversive of discipline or of good behavior. Rule 20(5). The charge did not factually demonstrate as to how the petitioner had acted prejudicial to the interest of the Authority as required by Rule 5. On true reading of articles of charge the grave man of the charge appeared to be making inflammatory speeches, shouting defamatory slogans against the Chairman and other officers. The petitioner further submits that there is no averment in the charge-sheet that meeting held on 5-2-81 by the Staff Association was a meeting held without the permission of the competent authority. The further submission of the petitioner is that the said meeting was held by the Association of the staff of which he was not a member. When he was returning from lunch at about 1.50 P.M. he found that the meeting was already going on. He was requested to address the meeting and he did address the meeting. He was not the member or the office bearer of the staff association. The meeting was not called by him nor was the meeting held by him within the meaning of Rule 5(21). He did not know whether the meeting was held with the permission or without the permission of the competent authority. The counsel for the petitioner further submits that in his address he only stated as under :

" THAT the officer association (of which he as the General Secretary) has not taken any decision on your demand/stand and I also advised them to be peaceful and adopt cooperative attitude with the management".

(6) The petitioner stoutly denied before the Inquiry Officer all the charges of acting prejudicial to the interest of the Authority or insubordination or disobedience or commission of any act subversive of discipline or good behavior. The Inquiry Officer was also satisfied on this score. He, Therefore, found the petitioner guilty of only addressing the meeting. The Inquiry Officer did not hold that the petitioner had participated in any demonstrations or made any inflammatory speeches or shouted defamatory slogans. The petitioner submits that except addressing the meeting no charge has been held to be proved

against him by the Inquiry Officer. In spite of this fact the Managing Director in his order removing the petitioner has held that all articles of charge are proved. If as a disciplinary authority the Managing Director was disagreeing with the Inquiry Officer and recording his own findings he ought to have stated the reasons. Neither the reasons are stated nor any evidence discussed so as to come to the conclusion contrary to the one drawn by the Inquiry Officer. In fact no evidence was recorded by the Inquiry Officer. The finding of the disciplinary authority is, Therefore, without any evidence and is contrary. In the circumstances stated above, it cannot be said that the petitioner held any meeting within the meaning of Rule 5(21) as he had nothing to do with the Staff Association. The counsel for the petitioner further states that the appellate order was also bad being a non-speaking order and for not considering the infirmities in the enquiry pointed out by the petitioner in his appeal memo. The order was mechanical. The petitioner then submits that the enquiry was held contrary to Rule 27 as no list of documents or list of witnesses was furnished to him along with the articles of charge. Although he had pleaded not guilty, he was not allowed to file his statement in defense nor produce any witnesses in his support. The trial held by the Inquiry Officer was in breach of principles of natural justice. The counsel for the petitioner then submits that the impugned orders were mala fide and were passed against him to victimise him for being the General Secretary of the Officers' Association. It is then contended that the said rules under which he is charged were arbitrary, discriminatory and violated Article 14, Article 16 and Article 19(1)(c) of the Constitution. The impugned orders were also passed in violation of the said fundamental rights of the petitioner.

(7) The counsel for the Authority has raised a preliminary objection to the maintainability of the writ petition. He contended that the Trade Fair Authority of India is not an instrumentality of a State or an Authority within the meaning of Article 226 of the Constitution or Article 12 of the Constitution. He then contended that a petitioner has no fundamental right of expression (addressing a meeting) on the private property of the Authority. He has relied on the judgment of the Supreme Court reported in *Railway Board, representing The Union of India, New Delhi & Anr. v. Niranjana Singh*, 1969 (3) SCR 518. He has also submitted that the service conditions, including those allegedly violated by the petitioner, are contractual in nature. They are not statutory regulations. Relying on the decision of the Supreme Court in *Smt. J. Tiwari Vs. Smt. Jwala Devi Vidya Mandir and Others*, he has argued that the petitioner cannot be re-instated. The petitioner at best can claim damages by way of a suit. On merits his argument is that the Authority cannot tolerate any act of indiscipline particularly by its officers and was, Therefore, justified in terminating the services of the petitioner.

(8) In *Som Prakash Rekhi v. Union of India and Anr.*, the Supreme Court has held that a Government company incorporated under the Companies Act is a State within the meaning of Article 12 of the Constitution. *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, goes even a step further. The Supreme Court has held in that case that a society registered under the Societies

Registration Act can also be an "Authority" or a "State" within a meaning of Article 12 of the Constitution. In face of this new development in the area of public law it is too late in a day to say that the Trade Fair Authority of India is not an instrumentality of the State. In para 49 of the counter-affidavit it is submitted that the Authority does not enjoy a monopoly status conferred or protected by the State. Several other organisations organise fairs, exhibition and participate in international fairs. No departmental activity hitherto carried on by the State is transferred to the respondent-company. There is no deep and pervasive and unusual control of the Government over the Authority. The Board of Directors take their decisions and lay down the policy according to their own light and wisdom and experience.

(9) The Trade Fair Authority of India is incorporated as a Government company under the Companies Act. The entire share capital is provided by Government. The Government officials are the initial signatories to the formation of the Authority. Board of Directors is appointed by the President of India. The Memorandum of Association states that the main object of promoting the said company is to undertake promotion of exports and to explore new markets for private items of export and to develop exports of new items with a view to maintaining, diversifying and expanding the export. With this end in view the Authority organizes and undertakes trade in commodities connected with export and arranges fairs, exhibitions, show rooms and depots in India and abroad. The Authority undertakes purchase, sale, storing and transport of the export commodities in India and elsewhere in the world. The publicity is done by holding and participating in international trade fairs and exhibitions in India and abroad. Normally exports and promotion of exports is a State function because of the national drive to earn more foreign exchange. The Trade Fair Authority does not organise a fair trade started for merely for public entertainment. The primary object is to augment exports. In this sense the Authority not only performs the traditional functions of the State but has almost the monopoly in this matter. That some authorities or departments of Government also hold fairs and exhibitions does not show that the Authority does not enjoy a monopoly in the matter. If the exhibitions and fairs held by other agencies were sufficient to promote export, the Government would not have set up Trade Fair Authority at all. One of the objects of the Authority is to undertake at the instance of the Union Government any trade or other activity connected with the objects stated above. The degree of control in matters of finances, appointment of Board of Directors and their removal and the appointments of the officials of the Authority is quite pervasive. They follow a pattern of other Government companies. There is over-riding power with the Central Government to enforce a definite pattern of action by the Authority through special and general directions.

(10) The provisions of the Memorandum of Association and the object of the formation of the Company leave no doubt in the mind that Trade Fair Authority of India is an instrumentality of State and is an Authority and State within the meaning of Article 12 and Article 226 of the Constitution.

(11) That takes us to the second question, whether the contractual character of the conditions of service is a bar to the maintainability of the present petition. As the Authority is not a statutory Corporation its rules regarding conditions of service are not statutory. But that does not stand in the way of the petitioner. It is well-settled that the contractual origin of the conditions of service will not bar a recourse to the Court in the writ jurisdiction where an instrumentality of a State acts in breach of fundamental rights guaranteed by the Constitution. *Shri R. M. Joshi and others v. Reserve Bank of India, etc.*, 1980 P. 291. Here the petitioner has challenged the validity of the relevant conduct rule's and the action taken against him on the ground of violation of Articles 14 and 16 of the Constitution. So also it is contended that the right of speech guaranteed by Article 19(1)(c) of the Constitution has been breached and is the ground for action of his termination of service. I am inclined to hold that there is merit in the contention of the petitioner. This contention of the Authority is Therefore, rejected.

(12) Having disposed of the two preliminary objections we may now examine the validity of the domestic enquiry against the petitioner and the action of termination of service taken against him. From the report of the Inquiry Officer it is clear that the petitioner has been found guilty only of addressing the meeting on 5-2-1981. The Inquiry Officer has not held that the petitioner had made any inflammatory speech or shouted any slogans or participated in the demonstration. In fact the Inquiry Officer has accepted the version of the petitioner as to what he stated in his address to the meeting. It is thus clear that the Inquiry Officer has not found the petitioner guilty of more serious charges of acting in a manner prejudicial to the interest of Authority, willful insubordination or dis-obedience or commission of acts subversive of discipline or of good behavior. Even on the independent examination I am satisfied that merely addressing a meeting without making any inflammatory speeches or shouting slogans would not amount to any serious misconduct like acting in the manner prejudicial to the interest of the Authority or willful insubordination or commission of act subversive of discipline. These are aggravated forms of misconduct. Some grave charges other than addressing a meeting must be established to substantiate the said serious charges. But) although the Inquiry Officer has not found the petitioner guilty of the said serious mis-conducts, the disciplinary authority has held the petitioner guilty of all charges. The order of the disciplinary authority is not a speaking order. The discretion in a disciplinary authority to differ from the findings of the Inquiry Officer must be exercised rationally and judicially, particularly when a different conclusion is drawn by the disciplinary authority. There is obligation to avoid arbitrariness and caprice. The reasons as to why the disciplinary authority differs from the Inquiry Officer and the evidence for coming to a different conclusion must be stated by the disciplinary authority. The supervisory jurisdiction of this court of the Administrative Tribunals would be rendered meaningless if non-speaking orders are to be accepted as valid in such circumstances. In particular the disciplinary

authority ought to have demonstrated as to how merely addressing a meeting would amount to serious mis-conduct envisaged in the "first three charges. On this count alone the termination order stands vitiated.

(13) But if we examine further the contents of the speech of the petitioner, accepted to be correct by the Inquiry Officer the conclusion of the disciplinary authority appears to be most unreasonable and unjust. What the petitioner had stated was that the Officers' Association had not taken any decision on the demand of the staff and that the Staff Association should adopt peaceful and cooperative attitude towards the management. There is not a single word in the said address of the petitioner which can even remotely be described as breach of discipline. The words are so clear that they are sufficient to give a contrary impression viz. that the petitioner had disclosed a very responsible attitude expected of an Officer to tell the staff to be peaceful and cooperative with the management. The disciplinary authority has totally mis-directed itself and recorded such a finding as no reasonable man in the similar circumstances would ever draw.

(14) The charge of addressing the meeting is allegedly covered by Rule 5(21) of the Conduct Rules. The said rule reads as follows :

" HOLDING meetings ,demonstrations, slogan shouting, etc. within the premises of the Authority without permission of the Chairman."

There is no finding by the Inquiry Officer that the petitioner indulged in demonstration or slogan shouting. The only finding is that he addressed a meeting. The petitioner submits that the mis-conduct mentioned in Rule 5(21) is of holding meetings and not addressing meetings. Normally holding of a meeting would include the act of addressing the meeting also but the facts here are little different. The meeting in question was held by the Staff Association of which the petitioner was not a member. Therefore, he could not have called the meeting of the Staff Association. The meeting was already going on when the petitioner joined it after his return from lunch. Therefore, it cannot be said that he had taken any part in holding a meeting. Being a Secretary of the Officers Association he was urged to address the meeting probably because the staff wanted to know as to what the officers' association was doing in regard to their demands. This appears to be clear from the fact that the petitioner in his address told the meeting that the Officer's Association had not taken any decision or stand on their demand. As he had joined the meeting which was already being held, it cannot be said that he had the knowledge as to whether the meeting was held with or without permission of the Chairman. No evidence was produced by the Authority before the Inquiry Officer to show that the meeting was held by the Staff Association without the permission of the Chairman. Indeed, the Article of charge of the petitioner does not even state that the meeting was held without the permission of the Chairman. There is no finding by the Inquiry Officer that the meeting was held without the permission of the Chairman. Considering these facts cumulatively it cannot be said that the petitioner is guilty of mis-conduct

mentioned in Rule 5 (21). The disciplinary authority has not applied its mind to the requirements of Rule 5 (21) and the facts of the case. The disciplinary authority has acted without applying a discriminatory and intelligent mind. The action is mechanical if not deliberate effort of victimisation. The petitioner was President of the Staff Association when he was in Government service. After he joined the Trade Fair Authority of India he became the Secretary of the Officer's Association. Termination of the services of about 25 years (out of which 21 years service is the Government service) on a flimsy ground of an innocent appeal in the meeting of the Staff Association smacks of victimisation for the petitioner for being an office bearer Association of another association. Termination of service was an extreme penalty totally un-warranted on the facts of the present case.

(15) The enquiry against the petitioner also suffers from serious breaches of the principles of natural justice, and Rules 27 and 28 of the Conduct Rules. Rules 27 and 28 are more or less similar to Rules 14 and 15 of the Central Civil Service (Discipline and Appeal) Rules. The petitioner was not supplied with the list of documents and list of witnesses along with the chargesheet as required by Sub-rule 3. Not being statutory regulations, no knowledge of the disciplinary rules can be imputed to the employees. The petitioner expressly made a grievance of want of knowledge of the disciplinary rules and asked for a copy. He was thus denied an opportunity to submit his written statement as required by Sub-rule 3. He has moved an interim application rejecting the charges against him and had reserved his right to file a full statement as required by Sub-rule 3 after getting a copy of the conduct rules. The records of the present proceedings do not show that any copy was furnished to the petitioner. The hearing of the enquiry was scheduled to be held on 17-3-1981. The enquiry was closed on that very day when the petitioner admitted as a fact that he addressed the meeting but he pleaded not guilty to the charges under various counts made against him. There was a total mis-direction by the Inquiry Officer as well as by the disciplinary authority. The admission of a fact of addressing a meeting is not an admission of the guilt, of the several charges of mis-conduct as mentioned in the rules. The procedure followed thereafter by the Inquiry Officer was wholly contrary to Rules 27 and 28 and illegal. As required by Rule 28, after the petitioner had pleaded himself not guilty, a regular trial should have been held by supplying him copies of the documents relied upon by the Authority, proving those documents, leading the evidence by the management with opportunity to the petitioner to cross-examine the said witnesses, by giving an opportunity to petitioner to lead his evidence and to make his defense statement. These are the mandatory requirements of a fair trial and disregard of them would amount to denial of natural justice to the petitioner. Sub-rule 4 of Rule 27 requires that the disciplinary authority shall record its findings on each of the charges where the charges are admitted by an employee in his written statement. Even assuming that the statement of the petitioner amounted to his admission of the guilt the said procedure was not followed. Recording of findings (on each charge) cannot be done without consideration of evidence and without stating reasons for arriving at the findings.

Rule 28(2) obliges the disciplinary authority to record its reasons if he disagrees with the report of the Inquiry Authority. The Inquiry Officer had not found the petitioner guilty of any subversive activity or of any willful disobedience or any conduct seriously prejudicial to the interest of the Authority. But the disciplinary authority has found the petitioner guilty of these serious charges without stating any reasons" The management did not lead any evidence to prove these serious charges. Even the evidence as to whether the meeting was held with or without permission of the Chairman was not led by the management. The petitioner was not given opportunity to lead his own evidence to disprove the charges. In Rule 27(1) Authority has accepted an obligation upon itself to the following effect :

" NO order imposing any of the major penalties specified in Clause (e), (f), (g) and (h) of Rule 25 shall be made except after an inquiry is held in accordance with rule."

The inquiry held against the petitioner and the order of termination passed against him are in breach of Rules 27 and 28 and amount to denial of natural justice to the petitioner. There was absolutely no evidence to establish any of the first three charges. The findings on the last charge is such as no reasonable man would record. Termination order is, Therefore, set aside.

(16) The appellate authority has passed a mechanical non-speaking order without applying its mind and without noticing the patent illegalities in the inquiry and the total unreasonableness of the findings on the speech made by the petitioner. The Appellate Authority also did not apply its mind to the disproportionate quantum of punishment imposed on the petitioner. The impugned order has destroyed not only his short service with the Trade Fair Authority but a long service of 21 years in the Central Government.

(17) Ignoring the contents of the speech of the petitioner, the circumstances in which it was made, disregard of the procedure of inquiry prescribed by the Authority itself, denial of proper opportunity to the petitioner to defend himself and imposition of most severe sentence unwarranted by the alleged misconduct, make the impugned orders highly unreasonable and arbitrary. They smack of discrimination and victimisation. The impugned orders violate the guarantee given by Articles 14 and 16 of the Constitution to an employee of an Authority which is an instrumentality of a State.

(18) In *Railway Board etc. v. Niranjan Singh*, 1969 (8) S.C.R. 548 the Supreme Court had held that right of expression embodied in Article 19(1)(c) cannot be exercised on the property belonging to Government. In that case, constitutional validity of the administrative instructions of the General Manager dated June 19, 1956 was challenged of being violative of Article 19(1)(a), (b) and (c). The instructions prohibited "organizing or attending a meeting inside railway premises or at places of work." However, the instructions further stated "Meetings of workers can be held on open grounds away from places of work with the permission of the railway authorities concerned if such open grounds fall

within railway boundary". It appears that the meeting for which the respondent was held guilty was held without the permission of the authorities and the venue was not "open grounds away from places of work." The requirement of giving permission in rule 5 (21) is similar to one in the Railway instructions. As there - is no evidence in the present case that the meeting was held without the permission of the Chairman, it cannot be held that the petitioner had committed any breach of the restriction imposed by the Authority. But, it cannot be said that holding the petitioner guilty for addressing the meeting was in violation of his fundamental right under Article 19(1)(c) of the Constitution.

(19) For the reasons stated above the impugned orders of the disciplinary authority and the appellate authority terminating the services of the petitioner are quashed and are set aside.

(20) After setting aside the termination order the question is whether the petitioner is entitled to reinstatement and consequential reliefs on the assumption of his continuation of service. The counsel for the respondent asserts that no such relief can be granted. He submits that the petitioner is entitled only to damages and that too through the remedy of a suit. He relies ^ on the decision of Supreme Court in Smt. J. Tiwari Vs. Smt. Jwala Devi Vidya Mandir and Others, . The decision , was rendered by the Supreme Court in an appeal arising originally out of a suit filed by a Head Mistress of an educational institution registered under the Societies Registration Act 1860. The suit was for declaration that her termination was illegal and for damages. The trial court set aside the termination, order and passed a decree for damages Along with reinstatement. The High Court upheld the decree for damages only but not for reinstatement. The Supreme Court concurred with the decision of the High Court observing that "rights and obligation of an employee of a private institution are governed by the terms of contract entered into between the parties. Where under those terms the principal's services were liable to be terminated on three months" notice, all that he would be entitled to, even if the dismissal is wrongful, is a decree for damages and not an order of reinstatement or declaration that notwithstanding the termination of his services he continued to be in service." In arriving at the said decision the Supreme Court has relied upon its earlier decision in Executive Committee of Vaish Degree College, Shamli and Others Vs. Lakshmi Narain and Others, . The Supreme Court rejected the contention on behalf of the Head Mistress that the said educational institution was a public body or a statutory authority as it was bound to follow the regulations of the University and the Education Code. Thus it was held that the institution in question was a purely private body. The same was the conclusion of the Supreme Court in the Viash Degree College's case (supra). Trade Fair Authority of India, as I have already held, is an instrumentality of the State and is a public body. I have further held that the termination was vocative of fundamental rights of the petitioner. The said decision of the Supreme Court has no application to the facts of present case. As the petitioner's termination was wrongful and illegal, he is entitled to reinstatement. He is also entitled to all the consequential benefits of

the continuation of service and the other service benefits to which he is entitled according to law.

(21) For the reasons stated above the writ petition is allowed with costs. The rule is made absolute.