

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

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ORIGINAL APPLICATION NO. 1064 OF 1997

New Delhi: this the 3<sup>rd</sup> day of September, 1996.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

1. Keshav Dev  
S/o Radhey Shyam  
Village Attarla  
P.O. Vishawar  
Dist. Mathura (UP)
2. Jawahar Lal Pal  
S/o Sh. Mewaram Pal  
Vill. Kishai Jagdishpur,  
P.O. Jagdishpur,  
Dist. Farrukhabad
3. Shashi Pal Singh  
S/o Shri Hira Lal  
Village Shekhupur Madan  
P.O. Hathras Junction  
Dist. Aligarh
4. Sant Pal  
S/o Sh. Rajaram Pal  
Village 25 Raipur  
P.O. Kisai Jagdishpur  
Dist. Farrukhabad
5. Munnalal Pandey  
S/o Sh. Gopal Prasad  
Village Gandhi Road Baldeo  
P.O. Baldeo,  
Dist. Mathura
6. Jaipal Singh  
S/o Sh. Malkan Singh  
Village Bachhepura  
P.O. Jalesar Road Mainkpur  
Dist. Etah
7. Mahabir Singh  
S/o Sh. Man Singh  
Village Chhibarau  
P.O. Baldev  
Dist. Mathura

8. Bhagwat Singh  
S/o Sh. Man Singh  
Village Chhibarau  
P.O. Baldev  
Dist. Mathura
9. Rameshwar Singh  
S/o Sh. Gyan Singh  
Village Dhananti  
P.O. Saraidan  
Dist. Mathura
10. Hardam Singh  
S/o Sh. Yadram  
Village Jila Hira  
P.O. Nangaon  
Dist. Mathura
11. Sukhbir Singh  
S/o Hitendrapal Singh  
Village Naran  
P.O. Naran  
Dist. Etah
12. Bani Singh  
S/o Sh. Ghanshyam Singh  
Village Harnampur  
P.O. Tochgigarh  
Dist. Aligarh
13. Ashok Kumar  
S/o Shri Ram Prasad  
Village Tedarapur  
P.O. Kisai Jagdishpur  
Dist. Farrukhabad
14. Ant Ram  
S/o Bhagwan Singh  
Village Madaura  
P.O. Madaura  
Dist. Mathura
15. Ram Naresh Pal  
S/o Virendra Pal  
Village Nagla Baldev  
P.O. Phagnam  
Dist. Etah

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16. Shiv Prakash  
S/o Shri Ram Lal  
Village Alamsahaipurwa
17. Shiv Charan Lal  
S/o Sh. Bachan Singh  
Village Astal  
P.O. Pigora Nadwai  
Dist. Bharatpur
18. Raman Lal  
S/o Hukum Singh  
Village Astal  
P.O. Pigora Nadwai  
Dist. Bharatpur
19. Netepal  
S/o Hukum Singh  
Village Astal  
P.O. Pigora Nadwai  
Dist. Bharatpur
20. Babu Lal Vaghal  
S/o Sh. Sitaram Vaghal  
V & PO Ujjain, T. Roopbas  
Dist. Bharatpur
21. Bhagwat Prasad  
S/o Ghanand Ram  
Village Chahal P.O. Singhari  
Tehsil Bayana, Dist. Bharatpur
22. Rup Singh  
S/o Nathua Ram Gujar  
Village Sighankhere  
P.O. Singhare T. Bayana  
Dist. Bharatpur
23. Janaki Prasad  
S/o Deep Chand  
Village Sedarla P.O. Mehlara  
Teh. Sadabad, Dist. Mathura
24. Shasi Prasad Singh  
S/o Sh. Puneet Prasad Singh  
Village Tikaora  
P.O. Vishnuganj  
Dist. Jahanabad (Bihar)
25. Lalendra Kumar  
S/o Sh. Parshu Ram Singh  
V. Tikaora, P.O. Vishnuganj  
Dist. Jahanabad (Bihar)

26. Ganesh Kumar  
S/o Sh.Pitambar Pal  
Village Ramnagar  
P.O.Aihar,  
Dist.Rae Barilly(UP)
27. Ram Sagar  
S/o Ram Saran Pal  
Village Jagatpur Kotha  
Dist.Rae Barilly(UP)
28. Suresh Prasad  
S/o Sh.Manohar Prasad  
Village Titora  
P.O.Vishnuganj  
Dist.Jahanabad(Bihar)
29. Shatrughan Prasad  
S/o Sh.Narain Prasad  
Village Daulatpur  
Tila Bajitpur  
P.O.Dakara, Dist.Gaya
30. Prem Singh  
S/o Pritam Singh  
V&PO Baroda  
Dist.Bharatpur
31. Suresh Chand  
S/o Ajanti Prasad  
Village & Post Bhadora  
Dist.Mathura
32. Mohan Lal  
S/o Padup Singh  
V & P.O.Madhaka  
Dist.Mathura
33. Bhagwan Singh.  
S/o.Sh.Jhutiya Ram.  
R/o.Village Adarsh Nagar  
P.O. Helak.  
Teh.Kumher.  
Distt.Bharatpur.Raj.
34. Rustham Singh s/o Sh. Rewati Prasad  
Vill & P.O. Bhawanpura  
via. Vand Varatha, Teh. Rupwas  
Dist. Bharatpur (Rajasthan).
35. Ram Swaroop Meena s/o Shri Mangilal  
r/o Vill Kustala Dist. Sawaimadhopur

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..... Applicants.

(By Advocate: Smt. Rani Chhabra)

Versus

1. Union of India,  
through its Secretary,  
Department of Telecommunications,  
Sanchar Bhawan,  
New Delhi.
2. Chief General Manager,  
Lucknow.
3. Divisional Engineer (T),  
Railway Electrification Project,  
B-1/10, Community Centre,  
Janakpuri,  
Delhi.
4. Assistant Engineer,  
Railway Electrification Project,  
B-1/10, Community Centre,  
Janakpuri,  
Delhi.

..... Respondents.

(By Advocate: Shri R.P. Agarwal for Respondents 1, 3, 4.  
Shri K. R. Sachdeva for R-2).

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

In this OA filed under Section 19 A.T. Act on 11.4.97 applicants who were engaged as casual labourers in Telecom Railway Electrification Project between 1984 and 1987 at various places impugned respondents' order dated 25.6.90 retrenching them and they pray for reinstatement with all consequential benefits, including grant of temporary status.

2. I have heard applicants' counsel Mrs. Rani Chhabra and respondents' counsel Shri R.P. Agarwal and Sachdeva.

3. Shri Sachdeva has taken the initial objection that the OA has been filed with great delay and is hit by limitation under section 21 A.T. Act.

4. In this connection, Mrs. Chhabra has invited my attention to MA No.1147/97 praying for condonation of delay. In that MA, it has been stated that as soon as applicants were retrenched in June, 1990 they moved the Central Govt. and filed a petition before Central Govt. Industrial Tribunal which was pending consideration. When the Hon'ble Supreme Court held that Telecom. Deptt. is not an industry, the Central Govt. Industrial Tribunal expressed its inability to continue with the dispute, upon which applicants have approached the Tribunal, as otherwise they would have been left remediless.

5. I have considered the matter carefully. Applicants themselves admit that they were retrenched in June, 1990 prior to their retrenchment on 25.6.90 in accordance with the provisions of ID Act, permission for which was sought by respondents from Labour Ministry/<sup>notice</sup> of retrenchment was sent to applicants (annexure-R 1) and compensation also was remitted to them. Against their retrenchment, applicants approached the Central Govt. Industrial Tribunal, and were pressing their remedies in that forum. The Presiding Officer, Central Govt. Ind. Tribunal in his order dated 12.11.97 relying upon the Hon'ble Supreme Court's judgment in Sub-Div. Inspector of Posts Vaikam & Ors. Vs. T. Joseph etc. JT 1996(2) 457 in which it was held by a 2 Judges Bench that Telecom services was not an industry, concluded that the reference under Section 10 I.D. Act was not maintainable before him, but gave liberty to applicants to approach any appropriate court or forum for redressal of their grievance in accordance

with law. This OA was filed prior to that order and it is thus clear that while applicants were separately pressing their remedies before the Industrial Tribunal, they had also filed this OA in CAT seeking substantially the same relief. Meanwhile another two Judge Bench of the Hon'ble Supreme Court in Bombay Telephone Canteen Employees Association P.T. Exchange Vs. UOI & another -JT 1997(6) SC 57 had also taken the same view that the Telecom Deptt. is not an industry and the Industrial Tribunal had no jurisdiction in this matter under Section 10(1) I.D. Act, but a remedy to approach the Constitutional Court under Article 226 of the Constitution was available and equally the remedy under Section 19 A.T. Act was available.

6. However, a three Judge Bench of the Hon'ble Supreme Court in G.M. Telecom. Vs. S. Srinivasan Rao & ors. JT 1997(9) SC 234 addressed itself to the question whether the Telecom. Deptt. of UOI was an Industry within the meaning of the definition of 'Industry' in Section 2(j) I.D. Act, in the light of the contention of the appellant that the Telecom. Deptt. of the UOI was not an Industry, and held that

"A two-Judge Bench of this Court in Theyyan Joseph's case (1996)8 SCC 489 (Supra) held that the functions of the Postal Department are part of the sovereign functions of the State and it is, therefore, not an 'industry' within the definition of Section 2(j) of the Industrial Disputes Act, 1947. Incidentally, this decision was rendered without any reference to the seven-Judge Bench decision in Bangalore Water Supply (supra) (1978)2 SCC 213. In a later two-Judge Bench decision in Bombay Telephone Canteen Employees' Association case-AIR 1997 SC 2817, this decision was followed for taking the view that the Telephone Nigam is not an 'industry'. Reliance was placed in Theyyan Joseph's case (1996)8 SCC 489 (supra) for that view. However, in Bombay Telephone Canteen Employees' Association case

(i.e. the latter decision), we find a reference to the Bangalore Water Supply case. After referring to the decision in Bangalore Water Supply, it was observed that if the doctrine enunciated in Bangalore Water Supply is strictly applied, the consequence is 'catastrophic'. With respect, we are unable to subscribe to this view for the obvious reason that it is in direct conflict with the seven Judge Bench decision in Bangalore Water Supply case (supra) by which we are bound. It is needless to add that it is not permissible for us, or for that matter any Bench of lesser strength, to take a view contrary to that in Bangalore Water Supply (supra) or to by pass that decision so long as it holds the field. Moreover, that decision was rendered long back-nearly two decades earlier and we find no reason to think otherwise. Judicial discipline requires us to follow the decision in Bangalore Water Supply case (1978) 2 SCC 213. We must, therefore, add that the decisions in Theyyam Joseph JT 1996(2) SC 457=(1996) 8 SCC 489 and Bombay Telephone Canteen Employees' Association (JT 1997(6) SC 57=AIR 1997 Supreme Court 2817) cannot be treated as laying down the correct law. This being the only point for decision in this appeal, it must fail."

7. As, in the light of the aforesaid ruling, applicants' petition in the Central Govt. Industrial Tribunal is clearly maintainable in that fora, it is fit and proper that applicants pursue their remedies in that fora, which they had initially invoked for settlement of their grievances.

8. Giving liberty to applicants as aforesaid this OA is dismissed. No costs.

9. In view of the aforesaid orders certain MAs (unnumbered) filed on 24.8.98 after the matter was heard do not survive and likewise these MAs are dismissed.

*S. R. Adige*  
( S. R. ADIGE )  
VICE CHAIRMAN (A)

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