

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1175/88
 T.A. No. 199

DATE OF DECISION 10.8.1990.

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| <u>Shri Harbir Singh & Another</u> | <u>xPetitioner</u> Applicants |
| <u>Shri G.D. Bhandari</u> | Advocate for the <u>xPetitioner(s)</u> Applicant |
| Versus | |
| <u>Union of India through Secy.,,</u> | Respondent |
| <u>Miny. of Defence & Others</u> | |
| <u>Shri P.P. Khurana</u> | Advocate for the Respondent(s) |

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble
 Mr. D.K. Chakravorty, Member)

The grievance of the two applicants before us is that their services have been illegally terminated by the respondents, and that they had been denied 'equal pay for equal work'. Both the applicants have worked as Motor Driver/Oil Engine Driver in the M.E.S. under the Ministry of Defence. They have been engaged on Muster Roll on daily-wage of Rs. 22/- against the normal scale of pay and with technical/artificial breaks. The first applicant has worked for 499 days from 23.8.1985 to 3.1.1987 while the second applicant has worked for 271 days from 8.4.1986 to 3.1.1987. This was coupled with technical/artificial breaks. Their services have been terminated by verbal orders.

2. They have stated that they that
The applicants are Ex-Servicemen, that they were
engaged against the quota reserved for Ex-Servicemen in
Civilian posts, that they fulfil the relevant recruitment
rules for appointment as Drivers, and that after termin-
inating their services, the respondents have resorted
to fresh recruitment on ulterior considerations. They
have alleged that the impugned order of termination is
violative of Section 25F of the Industrial Disputes
Act, 1947. They have also alleged that persons junior
to them have been allowed to continue in service.

3. The stand of the respondents in their counter-
affidavit is that the applicants were engaged on
muster roll on daily wages not exceeding 25 days at
a time, that no vacancy of M.T. Driver has been
reserved for Ex-Servicemen, and that the mere fact
they held
that the heavy duty licence is not sufficient to
enable them to get employment.

4. We have carefully gone through the records of
the case and considered the rival contentions. At
the outset, we may state that the engagement of
persons on daily-rated basis for short periods with
technical or artificial breaks and re-engaging them
or outsiders in their place, is neither fair nor just.
Such a practice will be violative of the provisions of
Articles 14 and 16 of the Constitution (vide Dr. (Mrs.)
Sangeeta Narang & Others Vs. Delhi Admin. & Others,
A.T.R. 1988 (1) C.A.T. 556, and Dr. (Mrs.) Prem Lata
Choudhary Vs. Employees State Insurance Corporation,
1987 (3) A.T.C. 879).

5. The Chandigarh Bench of this Tribunal has held in Bhawani Singh & Ors. Vs. Union of India & Ors., 1989 (1) ATLT, C.A.T. 375 that M.E.S., in which the applicants are also working, is an industry within the meaning of Section 2(j) of the Industrial Disputes Act, 1947, that the employees of M.E.S. are Workmen within the meaning of Section 2(s) of the said Act, and that termination of their services without complying with the provisions of Section 25F amounts to retrenchment within the meaning of Section 2(oo) of the said Act.

6. In the instant case, the applicants have worked for more than 240 days and, in our opinion, they are entitled to the protection of the provisions of Section 25F of the Industrial Disputes Act, 1947. The termination of their services was without giving them any notice or paying them any retrenchment compensation.

7. In view of the aforesaid considerations, we hold that the termination of the services of the applicants w.e.f. 3.1.1987 is in contravention of the provisions of Section 25F of the Industrial Disputes Act, 1947. We, therefore, set aside and quash the same. The respondents are directed to reinstate them in service as M.T. Drivers w.e.f. 3.1.1987 within a period of three months from the date of communication of this order. They will also be entitled to arrears of pay and allowances and other consequential benefits.

The parties will bear their own costs.


(D.K. Chakravorty)
Administrative Member

15/8/1990


(P.K. Kartha)
Vice-Chairman (Judl.)

10/8/90