

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI.

DATE OF DECISION 26.5.82

C.A. No. 108 of 1987.

Central Read Research Institute Staff Association

& othersApplicants

Shri VivekanandCounsel for the Applicants

Versus

Director Central Read Research. Respondent

Shri A.K.Sikri,Counsel for the respondent

CORAM:

THE HON'BLE MR.JUSTICE RAMPAL SINGH, VICE CHAIRMAN

THE HON'BLE MR.SALBGORTHI, ADMINISTRATIVE MEMBER

1. Whether Reporters of Local papers may be allowed to see the Judgment?

2. To be referred to the Reporter or not?

(Judgment delivered by Hon'ble Mr.SALBGORTHI
Administrative Member)

This application has been filed initially by the Association of Central Read Research Institute but later by means of a miscellaneous petition, names of 11 employees of the Central Read Research Institute as mentioned in the miscellaneous petition have been brought in the array of applicants. The applicants are workmen (Casual Labourers) of the Central Read Research Institute (C.R.R.I) which is a unit of Council of Scientific and Industrial Research (C.S.I.R.).

They alleged that they had worked continuously for over 240 days upto 31.3.86. Their services were terminated informally. The applicants further stated that the respondent resorted to the punitive action because the applicants demanded

that they be permanently absorbed. Their representation did not bring forth any relief and hence this application. The C.S.I.R. was brought in, though belatedly, but rightly, as one of the respondents. The applicants prayed for re-instatement in service and for regularisation with consequential benefits.

2. The respondent contested the claim of the applicants on the ground that the applicants were engaged purely as a temporary measure on daily wages to work as enumerators and since their services were no longer required, the same were terminated w.e.f. 31.3.86.

3. We have heard the learned counsel for the parties at considerable length and carefully perused the record.

4. Learned counsel for the applicants Shri Vivek Anand argued that the termination of the services of the applicants who had undisputedly worked for over 240 days, was contrary to Section 25-F of the Industrial Disputes Act, besides being violative of the principles of natural justice. He has drawn our attention to the case of The Workmen of American Express International Banking Corporation Vs. The Management of American Express International Banking Corporation 1985 ILLJ 539 wherein the Hon'ble Supreme Court held that Sundays and other paid holidays should be taken into account for reckoning number of days on which a workman is paid to have actually worked. Further on the question

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as to what constitutes 'continuous service', he has drawn our attention to the case of 'Manan Lal Vs. The Management of Bharat Electronics Ltd.' AIR 1981 Supreme Court 1253. It is well settled that Section 25-B (2) of Industrial Disputes Act comprehends a situation where a workmen is not in employment for a period of 12 calendar months but has rendered service for a period of 240 days within the period of 12 calendar months. If he has, he would be deemed to be in continuous service for a period of one year for the purpose of Section 25-B (2) of Industrial Disputes Act. In the light of the facts of the case and the relevant case law as aforesated, it was contended on behalf of the applicants that they should be reinstated in service and regularised as enumerators.

5. Shri A.K.Sikri- learned counsel for the respondent raised some preliminary objections. His first objection was that C.S.I.R. was not cited as a respondent. This objection was, however, adequately met by the applicants when they were allowed to implead the C.S.I.R. also. The next objection was that as some of the applicants filed a Civil suit titled Shri Naresh Kohli & others Vs. C.R.R.I but withdrew the same, they cannot once again rack-up the same matter before us. The learned counsel for the the applicants pleaded that since some employees of C.R.R.I approached the Civil Court without realising that the said court had no jurisdiction, the same should not come in the

way of present application. We are of the considered view that in the interest of justice, the objections raised on behalf of the respondent should be rejected more so when there was nothing on record to show that these were the applicants in that case also. Shri Sikri then elaborately contended that since the relief being sought by the applicants was under section 25-F of Industrial Disputes Act, they should approach the Industrial Tribunal/Labour Court, first before coming to the Tribunal. He has placed reliance on a Full Bench Decision of the Tribunal in 'A.Fadnawali Vs. C.P.W.D.' 1991 (1) SIR 245, wherein it was held that the applicants seeking relief under the Industrial Disputes Act must ordinarily exhaust remedy under that Act. All the same, we are of the view that where the relief sought is essentially to remedy a service grievance, the Tribunal cannot divest itself of its jurisdiction to entertain an application. On merits of the case, the learned counsel for the respondent asserted vehemently that CRRI being a Research Oriented Institute, it should be left to itself in the matter of engagement of workmen on daily wages as required basis and that when there was no work, it could not be ordered to absorb employees just because they had worked for a certain number of days. The applicants alleged that the C.R.R.I. continues to employ the workers for the same work which they were performing earlier.

6. The applicants having worked continuously for over 240 days in 12 calendar months, have acquired

a particular status and their services could not have been terminated in the manner in which it was done by the respondents. The termination of the services of the applicants being illegal, the application is allowed with the following directions to the respondents:-

- (a) The applicants will be reinstated in service within two months from the date of communication of this order.
- (b) Their cases for regularisation shall be duly considered, provided that the CRRI requires their services on a long term basis. In doing so, the applicants shall be given preference over the outsiders and those who served the CRRI on daily wages for lesser period.
- (c) In case the CRRI is unable to absorb them due to administrative compulsion, they may proceed further in accordance with law following the principle of 'Last come, first go'.
- (d) In the facts and circumstances of the case, we do not direct payment of back wages to the applicants.

7. The application is disposed of in the above terms without any order as to costs.

Member (A)
MEMBER (A)

(ug)

Finally 26.5.89
VICE CHAIRMAN