

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No. 510 of 1986

Gopal Sahu and another Applicants.

Versus

Deputy Chief Signal Tele
Communication Engineer(M.W) Central
Railway, Bombay and others. . . . Respondents.

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 challenging the order of termination of services dated 30.1.1985 passed by the Chief Tele Communication Inspector (MW) Jhansi, respondent no.3.

2. The contention of the applicant no.1, Gopal Sahu, is that he was appointed as Casual Wireless Tele Communication Maintainer 'C' on 22.6.83 and worked as such upto 18.1.1984 and was appointed as substitute W.T.M. 'C' from 8.2.1984 to 28.2.1985 by the Assistant Signal and Tele Communication Engineer, Micro Wave, Jhansi (respondent no.2). The applicant no.2, Arvind Kharait has alleged that he was appointed as substitute W.T.M. 'C' with effect from 1.10.1983 and he worked till 28.2.1985. It is contended that the applicants have been in continuous service for more than one year and their terminations amount to retrenchments and the order of termination is illegal and without jurisdiction. The applicants

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have prayed that the order of termination of services dated 30.1.1985 be set aside and the applicants be reinstated with continuity of service and with back wages.

3. In the reply filed on behalf of the respondents it is stated that the two applicants were initially appointed as substitute W.T.M. 'C' for three months and their services were extended month after month with clear notice that the extension was only for the period of one month mentioned therein; that the applicant had not acquired any right under Article 311 of the Constitution of India and their services were terminated in accordance with law; that the applicants had represented to O.S.D. (I.R.) B.B. and the same was considered and rejected by the order dated 21.5.1985; that the services of the applicants had to be terminated in view of availability of empaneled candidates against these posts and the services of the applicants were not required any further. The respondents had filed copies of letters dated 4.1.1985 addressed to the applicants informing them that posting of staff empaneled in the selection list are likely to be posted against the vacancy on which they were working and that their services will not be required after 1.2.1985 and that as and when any vacancy of substitute W.T.M., 'C' will arise in near future they will be given a chance to work as per seniority list of substitute, W.T.M 'C' of the division. A rejoinder affidavit was filed on behalf of Gopal Sahu, applicant no.1, in which the points taken in the application were

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reiterated and it is further stated that the notification dated 20.6.1984 is fully applicable to the applicants and the applicants are fully qualified and the respondents have not complied with the notification dated 20.6.1984. It is also contended that the applicants had fulfilled the qualifications for being put in the panel and the respondents had not prepared the panel, ignoring the instructions.

4. We have heard the arguments of the learned counsel for the parties and have also perused the record. From the papers filed by the applicants it is found that the applicant no.1, Gopal Sahu, was appointed as substitute W.T.M. 'C' for a period of three months and applicant no.2, Arvind Kharait, was appointed as substitute W.T.M. 'C' for a period of three months with effect from 1.10.1983. By the letter dated 30.1.1985 the two applicants were informed that their services will not be required after 28.2.1985. The joint representation dated 21.5.1985 of five persons including the two applicants was replied to by the Assistant Personnel Officer, Headquarters Office, Bombay V.T., Central Railway in which it is stated that they did not qualify in the selection and were not considered fit for empanelment for the post of W.T.M. Grade III.

5. The learned counsel for the applicants has contended that in terms of the letter dated 20.6.1984 of the Headquarters Office, Central Railway, copy enclosure '7' to the application, the applicants should have been put in the panel as they were fully qualified

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for the same. The true copy of the letter dated 20.6.84 filed by the applicants does not indicate the posts which are to be filled in by three methods of filling vacancies prescribed in this letter. It does not appear to be a complete one and therefore, it is not possible to place any reliance on this letter. The respondents have stated that the posts against which the applicants were working, had to be filled in by candidates, who were put in the panel and, therefore, it was necessary to give notice to the applicants that their services are not required after 28.2.1985. A perusal of the initial offer/order of appointment of the two applicants makes it clear that the initial appointment was for a period of three months. The contention of the respondents is that these appointments were extended from time to time on monthly basis and, therefore, the applicants were working as substitute W.T.M., 'C' on the clear understanding that the appointments given to them were for a fixed term period. Such appointment does not entitle them to the relief claimed in the application.

6. For the reasons mentioned above, we are of the opinion that the applicants have failed to establish their claims. Accordingly we dismiss the application without any order as to costs.

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A.M.

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J.M.

Dt. 7.5.1987

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Vs.

Respondents.

Hon'ble D.S.Misra,A.M.
Hon'ble G.S.Sharma,J.M.

(Deliv sred by Hon'ble D.S.Misra)

This is review application for review of the order dated 7.5.87 passed in Original Application no.510 of 1986 dismissing the claim petition challenging the order of termination of services of the applicants by the Chief Tele Communication Inspector(M.W.)Jhansi. The review petition was opposed by the respondents,who filed a reply. A replication was also filed by the applicants.

2. We have heard learned counsel for the parties and have also carefully perused the record of original application. The main ground taken in the review application is that the applicants had worked for more than 1 year and the termination amounted to retrenchment and the applicants were entitled to the retrenchment benefit under the Industrial Disputes Act.

3. The second point urged in the review petition is that the order of termination of the services of the applicants was passed by an authority lower than the appointing authority. Both these contentions have been denied by the respondents in the reply filed by them. The review petition does not disclose any new point or evidence which was within his knowledge or could not be produced by him before the order under review was passed, nor does it indicate that there was some mistake or error on the ^{apparent} ~~basic~~ of the record. On going through the order dated 7.5.87 passed by us, it is noticed that our finding on the main question of the nature of employment of the applicant is that the initial appointment of the applicant was for a period

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of 3 months and was extended from time to time on monthly basis. Thus the appointment was for a fixed term and the applicants were not entitled to the relief claimed by them. We are, therefore, of the opinion that there is no merit in this application and the same is rejected.

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A.M.

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J.M.

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