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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A./F.A. No. 383 1986.

Shri Muthukarpan Periyasamy Applicant(s)

Adv. Y.V. Sheth.

Versus

Union of India, W.Rly & Co. Respondent(s)

(Adv. R.M. Vin)

Sr. No.	Date	Orders
1	22/10/86	For admission
2	28/11/86	NA
Notice issued to all. No return of RPAD so far.		

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I.P.O. 367.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. No. 383 of 1986.

Muthukarpan Periyaswamy

... Applicant.

Vs.

Union of India,
Western Railway
and another.

... Respondents.

I N D E X

Annexure.	Particulars.	Page Nos.
	Memo of the application.	1 to 9
'A'	A copy of Memo dated 17-10-86	10
'B'	A copy of order passed by the Hon'ble Tribunal in application No. 31/85 dt. 31-3-86.	11

Stamp No. 367
Date of filing 20/10/88.
Registration No. 383/86.
For Dy. Registrar.
22/10/88
K. W. E. 367
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W. 10/88

P. B. 17
22-6-88

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O. A. NO.

383

OF 1986.

Details of Application :-

(1) Particulars of the applicant :

- (i) Name of the applicant : Muthukarpan
- (ii) Name of the father/husband: Periyaswamy
- (iii) Designation and office : Mr. Bukhari or his
in which employed. successor in the
- (iv) Office address. office C. Permanent
- (v) Address for service- Way Inspector,
of all notices. Western Railway,
Dholka,
District Ahmedabad.

(2) Particulars of the respondents :

- (i) Name and/or designation : (1) Union of India
of the respondent. through the General
- (ii) Office address of the Manager, Western
respondents. Railway, Churchgate,
Bombay-20.
- (iii) Address for service of
all notices. (2) Mr. Bukhari or his
successor in the
Office C permanent
Way Inspector,
Western Railway,
Dholka, Dist. Ahmedabad.

(3) Particulars of the order against which application is made :-

- (i) Order No. : Memo No. CTR/17.
- (ii) Date 17-10-1986.
- (iii) Passed by : Respondent No. 2, orally retrenched from service effective from on or about 21-10-1986.
- (iv) Subject in brief :-

That the applicant had been recruited as casual labour with effect from 1-3-79 and posted as Gangman scale Rs. 200-250(A) and worked continuously upto 18-1-1985 in WOP Project at Rajkot division and thereafter absorbed in Bhavnagar division with effect from 19-1-1985 and posted at Dhanduka. On transfer from Rajkot division he was treated as Junior in Bhavnagar division against Railway Board Scheme and Supreme Court Judgment. When the applicant was on duty on 13-5-1985 he met with an accident and injured and as a result he lost some parts of his left hand fingers and therefore paid compensation and alternatively posted as Watchman. Thereafter the applicant was sent for Medical examination of category B/1 and declared as failed on 20-12-1985 and therefore orally retrenched from service with effect from 1-1-86 by PWI/CTR Bhimnath. The applicant thereafter filed Application No. 31/85

before this Tribunal for redressal of his grievances and absorption in lower category of C/1 or C/2 on 30-12-85. The impugned action was violative to Railway Board statutory directions and therefore deserves to be struck down. Ultimately at the direction of the Tribunal the applicant was absorbed in alternative category of Watchman and now working under respondent No.2. Now the respondent No.2 ~~also~~ who is habituated to flout the Court's order and who is a strong headed Railway monarch has treated the applicant as his slave and again orally arbitrarily proposed to retrench the applicant from service effective from on or about 21-10-86 by saying that "No work for you, go to the Court of law, and get the wages from the Court", and therefore the applicant has been constrained to file this application for appropriate relief. The respondent No.2 has wilfully committed contempt of the Supreme Court decision, and Railway Board scheme and order passed by this Hon'ble Tribunal at Annexure 'B'. The conduct and service record of the respondent no.2 during the war period is worst and intolerable, and therefore, DAR proceeding is required to be initiated against the respondent no.2 by the respondent no.1.

(4) Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

(5) Limitation :

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunals Act, 1985.

(6) Facts of the Case :

The facts of the case are given below :-

- (a) As the applicant has challenged the arbitrary order passed by respondent in this Central Administrative Tribunal and as the applicant has been succeeded, the respondent No.2 with a object to take revenge, has again orally proposed to retrench the applicant from service by saying that, "No work for you, go to the Court of law and gets the wages from the Court".

The applicant says that the respondent no.2 has behaved the applicant as his slaves and without any power/authority and jurisdiction becomes a Railway monarch and has proposed to remove the applicant from service at any how. The impugned action of respondent no.2 is violative to articles 14 and 16 of the Constitution of India. The applicant says that the impugned action of the respondent no.2 is wilfully flouting the order of the Hon'ble Courts and/or

5 (4)

Hon'ble Tribunal and therefore he is guilty of the Contempt of Courts Act, and Tribunal and deserves to be punished. The applicant says that A. E. N./Botad and respondent no.2 have violated almost all the ~~provisions of the labour laws~~ provisions of the Labour Laws and have pocketed all the orders passed by the Supreme Court of India and Hon'ble Tribunal. A. E. N./Botad and respondent No.2 have no regard for the orders passed by the Hon'ble Court and behaved like a Railway emperor. As the AEN/Botad and respondent no.2 have not to spend amount from their own pocket, and as they have not been punished for arbitrary orders, they are habituated to flout the orders of the Court and by unfair labour practice they are victimising the labourers.

(b). In spite of the decision of the Supreme Court of India and in spite of the Railway Board Scheme, the respondents have yet not prepared, maintained and notified the Divisionwise seniority list and have flouted the direction of the Railway Board and decision of the Supreme Court of India and therefore deserves to be punished under section 17 of the Administrative Tribunal's Act, 1985 and under the provisions of the Contempt of Courts Act 1971 and respondent No.1 is further required to be commanded by the order of this Hon'ble Tribunal to initiate DAR Proceedings against AEN/Botad and respondent no.2 for passing such arbitrary orders.

(c) On each transfer from one division to another the applicant has been treated as junior and temporary status has not been granted to the applicant with effect from 1-1-81 as per the decision of the Supreme Court of India and railway Board Scheme and therefore also the respondent No.2 deserves to be punished by the respondent no.1.

(d) That the applicant has prima facie strong case and balance of convenience is also in favour of the applicant. If stay as prayed for is not granted, the applicant will again suffer irreparable hardships and will throw out to starvation.

(e) Oral order of retrenchment has been passed by the respondent no.2 after the order No. AN/Botad dated 17-10-86 which is annexed hereto and marked as Annexure 'A'.

Ann. 'A'

(f) A copy of order passed by the Hon'ble Tribunal is annexed hereto and marked as Annexure - B.

Ann. B

(7) Relief(s) sought:

In view of the facts mentioned in para 6 above, the applicant prays for the following relief (s):-

- (A) Be pleased to quash and set aside the ^{oral} impugned/orders of retrenching the applicant from service, being punitive, arbitrary, mala fide and flouting the Judgment of the Supreme Court of India as reported in 1985(2) S. C. C. Page 648 and order passed by this Hon'ble Tribunal at Annexure 'B';
- (B) Be pleased to summon the respondent no.2 to appear in person before this Hon'ble Tribunal to show cause for initiating Contempt proceedings against him for wilfully flouting the Supreme Court Judgment and order at Annexure B.
- (8) Interim order, if prayed for :
- Pending hearing and final disposal of this application, be pleased to grant mandatory orders against the respondents, their officers, servants, agents and subordinates from retrenching the applicant from service in any manner what so ever and to maintain status quo ante impugned oral order.
- (9) Details of the remedies exhausted:
- The applicant, declares that, ~~however~~ he has availed of all the remedies available to him

under relevant service rules. No remedies are available, and order has been passed in a military fashion.

(10) Matter not pending with any other court :

The applicant further declares that the matter regarding which this application has been made is not pending, before any Court of law or any other authority or any other Bench of the Tribunal.

(11) Particulars of the Indian Postal order :-

- (i) Number of Indian postal order : 947739
- (ii) Name of the issuing Post Office : G. High Court,
- (iii) Date of issue of postal order : 20.10.86
- (iv) Post Office at which payable : Ahmedabad.

(12) Details of Index : Attached hereto.

(13) List of enclosures :-

- (A) A copy of the impugned retrenchment order at Annexure 'A'.
- (B) A copy of the order passed by the Hon'ble Tribunal at Annexure 'B'.
- (C) Indian Postal order.

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- 9 -

V E R I F I C A T I O N


I, Muthukarpan Periyaswamy, the applicant do hereby verify that whatever stated hereinabove is true to the best of my knowledge, information and belief and I believe the same to be true.

That I have not suppressed any material facts.

Ahmedabad, 0

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Dated: 26 - 10 - 1936. 0

 R7m 87
R1.0
Signature of the applicant.

11 (6)

Annexure 'B'

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

Application No. 31 of 1985.

Muthukarpan Periyaswamy Applicant.

Vs.

1. Union of India,
through the General Manager,
Western Railway,
Churchgate,
Bombay-20.
2. Chief Engineer (C),
Western Railway,
2nd floor,
Station building,
Ahmedabad-2.
3. Demarcation Way Inspector (CTR),
Western Railway,
Bhimnath,
District Ahmedabad.

... Respondents.

Coram: B. C. Gadgil, Vice-Chairman.
31-3-86

Tribunal's order :-

Mr. Vin for the respondents makes a statement on instructions of the Railway Officer present (Mr. R. G. Bhatt) that the applicant has been absorbed as Casual Labour in the alternative category of employment as Chowkidar and he is actually working in that post as such. In view of the statement Mr. Shah for the applicant withdraws the application. Application is disposed of as withdrawn.

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Coram: Hon'ble Mr. P.H. Trivedi : Vice Chairman
Hon'ble Mr. P.M. Joshi : Judicial Member

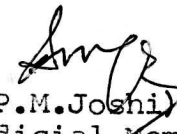
20.5.1987

Heard learned advocates Mr.Y.V.Shah and Mr.R.M.Vin for the applicant and the respondent respectively. Mr. Vin states on instruction received that applicant has not been retrenched that he is continued in service and will not be retrenched without observing rules in this regard. Mr. Shah states that now he has no cause to pursue. With these observations the case is disposed of,

— as withdrawn. —



(P.H.Trivedi)
Vice Chairman



(P.M.Joshi)
Judicial Member