

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 109 of 1986 ~~198~~  
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DATE OF DECISION 25/03/1987

Karshan Jivabhai Vaghamshi Petitioner

B. B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Others. Respondent

J. D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. Trivedi : Vice Chairman

The Hon'ble Mr. P. M. Joshi : Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

(9)

J U D G M E N T

OA/109/86

25/03/1987

Per : Hon'ble Mr P H Trivedi : Vice Chairman

In this case the applicant was working as Casual Labourer from 1st October, 1982 to 15th July, 1985 in Sub-Divisional office of Telegraphs, Dhoraji and has been refused to be taken on duty and according to the applicant, inspite of giving registered notices he has not been permitted to work. As he has completed more than 2 years' period of service, he is entitled to regularisation and according to him, termination cannot be effected without observing rules and procedure prescribed for this purpose. In reply the respondent has stated that the applicant was not sponsored by the Employment Exchange, Rajkot initially. The respondent admits that the applicant was working from 1-10-1982 to 15-07-1985 as Casual Labourer but when he was given duty as Watchman he was found sleeping during duty hours when the theft took place. Therefore, his services were terminated. This fact was suppressed by applicant according to the respondent, who also denies that the services of the applicant were found satisfactory.

2. Neither party has produced the order of appointment but it is admitted by both that the status of the applicant is of Casual Worker. It is also admitted by both the parties that the applicant has worked for more than 2 years. He is therefore, eligible for the benefits of temporary service. His abrupt termination is not by an order simplicitor but after

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after giving him due notice of one month in which the ground of negligence on account of sleeping during duty hours has been specifically mentioned. In the circumstances of the case, whether an order simplicitor terminating the service of Casual Labourer could have been given or not or whether the applicant is entitled to the benefits of being treated as worker under the Industrial Disputes Act or not are not questions which need <sup>not</sup> ~~to~~ be decided for the purpose of disposal of this case. An order terminating the services of the applicant showing the grounds thereof, being not an order simplicitor is clearly of the nature of punishment and requires to follow the procedure of affording an opportunity to be given to the applicant to show cause why punishment should not be inflicted upon him for which specific charges have to be drawn up or atleast the applicant has to be given an opportunity to be heard. This has to be done either for meeting the ends of natural justice or for following the procedure prescribed for terminating the services of a temporary servant as the case may be. This has not been done and therefore, the order terminating the services of the applicant has to be set aside. The respondent is free to deal with the applicant regarding not continuing him in service according to the rules applicable to him after following the procedure prescribed for terminating the services of the applicant according to the rights of the respondents to do so.

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We direct that the applicant be taken back into services from the date of the termination viz. 06-06-1985 and be paid his back wages.

The application is allowed. The impugned order dated 06-05-1985 is quashed and set aside.

No order as to costs.

*Pharis*  
( P H TRIVEDI )  
VICE CHAIRMAN

*Joshi*  
( P M JOSHI )  
JUDICIAL MEMBER

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