

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 113 OF 1987.
~~XXXXXX~~

DATE OF DECISION 3.8.1987.

SHRI SUBRAMANIAM MUTHU Petitioner

Y.V. SHAH Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. (W.RLY) Respondents

R.P. BHATT 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 ? *Yes*
2. To be referred to the Reporter or not ? *No*
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. *No*

Shri Subramaniam Muthu,
Permanent Way Inspector (C),
Western Railway,
Porbandar.

..... Petitioner.

(Advocate: Y.V. Shah)

Versus.

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. Mr. Iyenger or his
successor in the office,
Executive Engineer/C/I,
Western Railway,
Jamnagar - 8.

..... Respondents.

(Advocate : R.P. Bhatt)

J U D G M E N T

O.A.No. 113 OF 1987.

Date: 3.8.1987.

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner, Shri Subramaniam Muthu of Porbandar, has challenged the validity of the Notice No.VOP/JAM/E/615/1/1 dated 8.8.85 issued by the Executive Engineer, Construction, Jamnagar (Western Railway), whereby his services are terminated with effect from 10.9.1985. The impugned Notice Annexure 'A' reads as under :-

"Consequent upon the reduction in work your service is no longer required. As such, your service will stand terminated with effect from 10.9.85 in terms of para 25-F(a) of Industrial Disputes Act.

This may be treated as one month's notice. Please acknowledge the receipt."

contd..... 3/-

2. He has prayed that the impugned notice of retrenchment be quashed and set aside and he should be granted all the consequential benefits including backwages and seniority above his juniors. According to him, he is engaged as a casual labourer with effect from 15.7.1982 and since then, he has been repeatedly transferred from place to place. It is his case that the action of retrenchment is in violation of the Rules in vogue including Rule 77 of the Industrial Disputes (Central) Rules, 1957 and Section 25-F of the Industrial Disputes Act, 1947 and Article 14 & 16 of the Constitution of India, as the Respondents have not followed the principles of "last come first go".


3. The Respondents have resisted the petitioner's application and have denied the averments and the allegations made against them vide their written statement. It is contended inter-alia that in view of the non-availability of work on completion of V.O.P. Phase-II the Department was constrained to retrench the applicant according to the seniority list prepared and maintained by the office of the Executive Engineer and especially, he was not ready to go to other Project of the Railway Department.

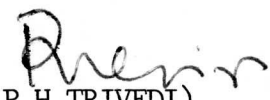
4. When the matter came up for hearing we have heard the learned counsel Mr. Y.V.Shah and Mr. M.R.Bhatt for Mr. R.P.Bhatt on behalf of the applicant and Respondents respectively. It was conceded at the bar that the contentions and issues raised in this application were squarely covered by our Common Judgment dated 16.2.1987 rendered by this Bench in O.A.No. 331/81 (Sukumar Gopalan Vs. Union of India & Ors.).

5. It is also conceded that the petitioner is out of job as no interim relief has been granted by this Tribunal as prayed for. Admittedly, the petitioner was in the employment of the Respondents-Railway Administration for more than 240/180 days as a Casual Labourer which entitles him to acquire 'temporary status' in the

employment as a casual labourer. Admittedly, no 'Division-wise' seniority list as envisaged in the case of Indrapal Yadav (1985 S.C.C.(I&S) 526) has been produced or shown to have been published as required under Rule 77 of the Industrial Disputes (Central) Rules, 1957. Obviously therefore, the principles of "last come first go" has not been strictly complied with.

6. Hence for the reasons stated in our aforesaid common judgment, we allow the application and quash the action of the Respondents in terminating the service of the petitioner vide impugned notice dated 8.8.85 (Annexure 'A') and direct the respondents to reinstate the petitioner Shri Subramaniam Muthu with backwages treating him to be in continuous service of the respondents. It is further directed that the petitioner will continue to be in the service of the Respondents and may be absorbed in regular employment as Class -IV employee as and when empanelled after screening in accordance with rules. There will be no order as to costs.


(P.M. JOSHI)
JUDICIAL MEMBER.


(P.H. TRIVEDI)
VICE CHAIRMAN.