

CONFIRMED (100)
9

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 118 OF 1987.
~~TAX No.~~

DATE OF DECISION 28-6-1991.

Dilipkumar Mansukhlal Rathod, Petitioner

Mr. K.K. Shah, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. Jayant Patel, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. S. Santhana Krishnan, 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*
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Dilipkumar Mansukhlal Rathod,
Opp. District Panchayat,
Bachubhai's Chali,
Surendranagar.

..... Petitioner.

(Advocate: Mr. K.K. Shah)

Versus.

1. Union of India
(Notice to be served through:
Telecom District Engineer,
Surendranagar District,
Near Alankar Talkies,
New Telephone Exchange Building,
Surendranagar.)
2. Sub-Divisional Officer, Telegraphs,
Sub-Divisional Office, Telegraphs,
Dhrangadhra,
District Surendranagar. Respondents.

(Advocate: Mr. Jayant Patel)

J U D G M E N T

O.A.No. 118 OF 1987

Date: 28-6-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

This Original Application under section 19 of the Administrative Tribunals Act, 1985, filed by the applicant seeks two reliefs. The first relief consists of setting aside the action of the respondents in not confirming the applicant to the post of Watchman. The second consists of directing the respondents not to compel the petitioner to do labour work and the respondents to give him duty of a watchman only.

2. The applicant claims that he was appointed as a Watchman on 9-4-80 and has been working ever since as Watchman. He was called for interview on 5.2.87 for regular absorption. The applicant appeared for the interview. At the time of interview, he was asked to produce a School Leaving Certificate mentioning his

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19

correct name which he did. However, his regular absorption did not come. His say is that he was appointed on a regular basis to begin with and he was therefore not required to appear for the interview held on 5.2.1987. Being illiterate, he did not object and appeared. His juniors have been regularised and confirmed but he was not been regularised and confirmed. He also alleges that instead of being given the duty of watchman the respondents are asking him to do manual work. He argues that the respondents cannot change the nature of his duties which he has been performing for the last seven years as it amounts to change of service conditions.

3. The respondents^{chose}/not to file their reply despite opportunity and on 5.1.88 a Bench of this Tribunal directing that the respondents should file reply within 45 days from the date of the order.

4. We have heard counsel for both parties and perused the record.

5. Though respondents^{chose}/to file no reply, the applicant nevertheless has to prove his contentions and allegations. To begin with, the applicant on his own showing (Annexure A dated 17.4.83) was appointed as casual labourer and directed to report for work to Lineman Telegraphs (Stores) in the office of SDO Telegraphs, Surendranagar, from 18.4.1983. A copy of a certificate (Annexure 'B') which bears no date and signature purporting to have been issued by Sub-Divisional Officer, Telegraphs, Dhrangadhra, has for its subject certifying that the applicant "has worked as a Casual Labour (Chokidar) in SDO Telegraph Office, Surendranagar Sub Division, Surendranagar". The number

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11

of days of engagement of the applicant are mentioned in it. This annexure shows that in the office of SDO Telegraphs Surendranagar the casual labour applicant was given the work of Chokidar. Casual Labour denotes the nature of the engagement of an ^{employee.} When so engaged, the applicant will be liable to be given any of the duties which, under the rules of the department, can be given to casual labour. The applicant and his counsel have failed to show to us any rules of department which say that a casual labour once given the work of Chokidar is never to be given other work which casual labour under the rules of the department may be liable to perform. The applicant was engaged as casual labour and was directed to report to work as Lineman, Telegraphs (Stores). Neither the appointment letter says that he is engaged as Chokidar nor is there a direction to the SDO Telegraphs that the applicant should be given the duty of chokidar only. The applicant's claim therefore that he should be given the work of Chokidar only and no other work which casual labour in the Department of Telegraphs may be liable to perform under the rules of department has therefore to be rejected.

6. Coming to the question of confirmation of the applicant in service, the applicant filed M.A. 589/87 in the above Original Application. In this application it is averred that he was appointed as a regular mazdoor on 4.4.1987. With his appointment as a regular mazdoor, confirmation should obviously follow in due course and we do not deem it necessary to issue any direction to the respondents.

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MA/589/87

~~MA/590/87~~

in

OA/118/87

13

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

26.11.1987

Miss. D.T.Shah learned advocate for the applicant and
Mr.J.D.Ajmera learned advocate for the respondent appear.
Miss.D.T.Shah for the applicant states that instead of
pressing for relief as prayed in this application she
wants the original case OA/118/87 be posted early.
Registry to look into the matter and give an early
date. With this observation, MA/589/87 stands disposed of.

P.H. Trivedi
(P.H.Trivedi)
Vice Chairman

P.M. Joshi
(P.M.Joshi)
Judicial Member

a.g.bhatt