

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~XXXXXXXXXXXX~~

O.A. No.14/87

198

~~Exxx~~DATE OF DECISION 10-4-1990Prataphai Merubhai PetitionerMr.Akil Kureshi Advocate for the Petitioner(s)

Versus

Union of India RespondentMr.NS Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. AV Haridasan, Judicial Member  
&

The Hon'ble Mr. MM Singh, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yn*
2. To be referred to the Reporter or not? *Yn*
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*

Date: 10-4-1990

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Prataphai Merubhai - Applicant  
Vadodiya.

(Advocate: Mr. Akil Kureshi)

Versus

1. Union of India  
(Through the General Manager,  
Western Railway,  
Church Gate, Bombay).
2. The Chief Engineer (Construction)  
Western Railway,  
Station Building,  
2nd Floor, Ahmedabad-2.
3. The Executive Engineer (C)-I,  
Western Railway,  
Ahmedabad-2.
4. The Divisional Railway Manager,  
Western Railway,  
Baroda. - Respondents

(Advocate: Mr NS Shevde)

JUDGEMENT

Original Application No.14/87

(Hon'ble Shri AV Haridasan, Judicial Member)

The applicant who was engaged as casual labour in Viramgam-Shahibaug Doubling Project at Baroda Division of Western Railway from 21.5.1980 and was retrenched with effect from 20.6.1981 has filed this application praying that the respondents may be directed to reinstate him in service with back wages and continuity of service from 1985 at Viramgam-Shahibaug Doubling Project, Baroda Division or any other project in Baroda Division. The short facts of the case as averred in the application can be briefly stated as follows.

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2. The applicant was employed as a casual labour in the Viramgam-Shahibaug Doubling Project, Baroda from 21.5.1980 onwards. By the notice dated 16.5.1981, he was informed that his services were liable to be terminated on 20.6.1981 without any further notice and that he would be paid retrenchment compensation as per rules. Pursuant to this notice, the services of the applicant was terminated but when the Viramgam-Shahibaug Doubling Project was restarted in October, 1985, the applicant was not re-engaged. Coming to know that the project has been restarted, the applicant made oral representations to the authorities for taking him back on duty. But the respondents have not complied with his request. Several persons who were juniors to the applicant have been reengaged. As per the provisions of 25-H of the Industrial Disputes Act, a retrenched employee is entitled to get preference for reemployment, but ignoring this provision, the respondents have engaged persons from outside without considering <sup>the</sup> preferential claim of the applicant. Therefore, the applicant prays that the respondents may be directed to reinstate the applicant as casual labour in Viramgam-Shahibagu Doubling Project, Baroda Division or any other project in Baroda Division with back wages and continuity of service with effect from 1985.

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3. This application is opposed by the respondents.

In the written statement, the respondents have contended that the applicant/<sup>who</sup> was engaged as casual labour on daily wages from 21.5.1980 on the project work of Shahibagh-Viramgam(Partial) Doubling was retrenched for want of work giving a months notice on 16.5.1981 and that as the retrenchment compensation was already paid to him the complaint of the applicant that the provisions of Section 25-F of the I.D.Act have not been complied with in retrenching him is without merit. They have denied the averment in the application that persons from outside and those who were junior to the applicant have been engaged when the project was restarted without considering the claim of the applicant.

It has been further contended that only those who obtained an order from Court have been engaged in the project and that as no person junior to the applicant has so far been engaged, the applicant has no legitimate grievance.

4. When the case came up for hearing, neither the applicant nor his counsel was present. We have heard the arguments of Mr.N.S.Shevde, the learned counsel for the respondents and have also gone through the records in detail. The averments in the application that the services of the applicant were wrongly terminated and

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his claim that he is entitled to be reinstated in service with effect from 1985 with full back wages and continuity of service have no merit at all because the applicant was given a month's notice prior to retrenchment and he has been paid retrenchment compensation. Regarding reengagement, it is contended by the respondents that nobody junior to the applicant and no outsider has been engaged in the project work. Therefore, we are not convinced that the case of the applicant that the respondents have violated any of the provisions of the I.D. Act is established.

5. In view of what is stated in the foregoing paragraph, we find that there is absolutely no merit in the application. We dismiss the application without any order as to costs.

M M Singh  
(MM SINGH) 10/4/90  
ADMINISTRATIVE MEMBER

(AV HARIDASAN) 10/4/90  
JUDICIAL MEMBER

10-4-1990

trs