

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
 AHMEDABAD BENCH  
 NEXXWXXDXEXXHIX

(6)

O.A. No. 182  
~~Case No.~~

198 7

DATE OF DECISION 23-4-1990

Mina Prabhashanker Bhatt Petitioner

Shri J.R.Nanavati Advocate for the Petitioner(s)

Versus

Station Director, All India Radio Respondent

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

CORAM :

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

The Hon'ble Mr. N.Dharmadan : 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?

Mina Prabhshanker Bhatt  
 Vora Sadhna  
 Dela Sameni Sheri  
 Nagar Chakla  
 Uplipar Road,  
 Bhuj - Kutch.

⑨  
 ... Applicant

Versus

Station Director,  
 All India Road,  
 Govt. of India,  
 Bhuj - Kutch.

... Respondents

Coram : Hon'ble Mr.P.H.Trivedi : Vice Chairman  
 Hon'ble Mr.N. Dharmadan : Judicial Member

ORAL ORDER

Date : 23/04/1990

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

Heard Mr.J.R.Nanavati and Mr.J.S.Yadav for Mr.J.D.Ajmera, learned advocates for the applicant and the respondent respectively. It is admitted that the petitioner at the time of termination was not sought to be terminated because he was being substituted by a regularly selected candidate. The petitioner's case is that in terms of the appointment although it is adhoc and subject to termination without notice or assigning any reason, the adhoc appointment of termination being on three grounds stipulated in the termination order namely :

"Her appointment will be terminated on occurrence of any of the event whichever is earlier.

- (i) S.S.C. sponsored candidates is appointed
- (ii) C.G.I. holding lien on the C.G.II's post is reverted back to this C.G.II post.
- (iii) On completion of 12 months."

he could not be terminated from service except on such grounds.

2. The petitioner's service have been continued after the expiry of twelve months. The order of termination dated 31.3.1987 refers to instructions dated 25.3.1987 on the basis of which it has been made. But during the hearing

it was stated by learned advocate for the respondent in answer to the question put to him by us that such instructions were not supplied to the petitioner. The learned advocate for the respondent cited the full Bench judgment referred to by him in the reply which has no relavance in that it was not the case of the petitioner <sup>therin who</sup> ~~that she~~ claims regularisation. The respondent's contention is that where the appointment is adhoc it can be terminated by the respondent without giving notice or assigning of any reason, the petitioner has no right regarding continuation of appointment. This is not borne out by terms of the appointment. If an adhoc appointee is substituted by a regularly selected candidate and if that ground is taken, the petitioner's case could have been answered but if the adhoc appointee is substituted merely because there has been no other ground except that the respondents claims his right to do so, the Court has to consider whether such termination is arbitrary or whether it is simpliciter. There is no averment that the petitioner was unsuitable in this case.

3. Learned advocate for the petitioner claims that <sup>should be upheld</sup> the right of notice before termination. Had there been any circumstance justifying termination in terms of the occurance of any of the events stipulated in the order of appointment or of his substitution by a regularly selected employee the right of notice may not have arisen. As stated above, this circumstances have not been urged by the respondent as having occured.

4. In the facts and circumstances of this case, therefore, we find that there is merit in the petition and the impugned order dated 31.3.1987 is quashed and set aside. The <sup>order made to</sup> petitioner be reinstated with backwages. The respondents are at liberty to terminate the appointment in terms of the

MA/153/87

with

OA/182/87

(V)

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

28/4/1987

Heard learned advocate Mr Nanavati who pleads for orders on MA/153/87 to protect the interest of the petitioners who were poorly paid employees. The relief prayed for in MA/153/87 will be taken care of while disposing the OA/182/87. There is no ground for interim relief when this can be so done. With these observations MA/153/87 stands disposed of and this order may be taken on the record of the petition.

*Phen*  
( P H Trivedi )  
Vice Chairman

*JM*  
( P M Joshi )  
Judicial Member

pm;