

(9)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

O.A. No. 205 of 1987  
~~T.A. No.~~

DATE OF DECISION 7.7.1988

BHAVANSINH BABUBHA Petitioner

P.H. PATHAK Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s.

B.R. KYADA 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 ? *Yes*
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*

(10)

Bhavansinh Babubha,  
C/o. Rly Colony,  
Quarter No. 48/B,  
Hapa.

.. Applicant

Versus

1. Union of India, through,  
The Divisional Railway Manager (WR)  
Kothi Compound,  
Rajkot
2. Asstt. Engineer (W.R.)  
Behind Ervine Hospital  
Jamnagar.
3. Inspector of way  
Railway Station, Hapa.

J U D G M E N T

Date: 7.7.1988

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

In this application filed under section 19 of the Administrative Tribunals Act, 1985, on 22.4.1987, the petitioner Shri Bhavansinh Babubha of Hapa, serving as a Casual Labourer has prayed that the action of the respondent No. 3 (Inspector of way, Railway Station, Hapa) verbally terminating his services from 21.3.1986, be declared as illegal and invalid and inoperative and the same be quashed and set aside. He has also prayed that the respondents be directed to reinstate him on his original post with full back wages.

2. According to the case set up by the petitioner, he has been engaged as casual labourer in the year 1981 and he worked as such till 20.3.1986. It is alleged that the respondent No. 3 has adopted 'pick and choose' policy in the matter of retrenchment with the result many juniors are retained. It is however alleged that his services are terminated by respondent No. 3 in order to deprive the petitioner of the benefits of regularisation and hence the same is

(11)

absolutely arbitrary and violative of provisions contained under article 14 & 16 of the Constitution of India and the rules framed under the Industrial Disputes Act, 1947.

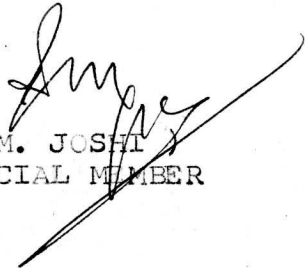
3. In response to the notice issued upon the respondents, Mr. B.R. Kyada, the learned counsel, appeared on behalf of the railway administration. Adequate opportunities were given to the respondents to file their reply. However, they have not preferred to do so. When the matter came up for hearing, we have heard Mr. P.H. Pathak and Mr. B.R. Kyada the learned counsel for the petitioner and respondents respectively.


4. Relying upon the case of "Nav Bharat Hindi Daily V/s. Nav Bharat Shramik Sangha & Anr. (1985(1) LLJ page 474 (Bombay) ), it was contended inter-alia by Mr. Pathak that the provisions contained under section 25F of the Industrial Disputes Act are not complied with and the action of retrenchment is in violation of 'last come first go' rule and rules relating to publication of seniority list prior to retrenchment. While referring to the service card Annexure 'A', it has been submitted that the petitioner was initially engaged on 21.6.1981 and even though later on, there is a break for a period of two years but since 24.8.1983, the petitioner has been working continuously till 20.3.1986, when he was not allowed to work by the defendant No.3. Accordingly, it is submitted that the petitioner has acquired temporary status by length of service which is admittedly more than 240/120 days.

5. The particulars regarding the date of the employment and the length of the service of the petitioner as stated are not in dispute. The petitioner's allegation that his services are terminated by the defendant No.3 verbally, remain uncontroverted. On the

basis of the materials placed on record, The petitioner seems to have acquired temporary status under the relevant provisions of the I.R.E.M. Obviously, no Division-wise Seniority List, has been produced or shown to have been published as required under rule 77 and the Industrial Dispute (Central) Rules, 1957. Moreover, the provisions contained under section 25F of the Industrial Disputes Act do not seem to have been complied with. The action of the respondent in terminating the services of the petitioner is against the principles of 'Last come first go' and accordingly the said action can not be sustained. The petitioner represented his grievance under his letter dated 29.12.1986 (Annexure 'B') after his services were terminated, however, the respondents have not responded to his representation. When the action of the respondent of retrenchment is not sustained, the petitioner would be entitled to the relief of reinstatement and back wages.

6. / In this view of the matter, the application is allowed.. We hereby quash the respondents' action terminating the services of the petitioner from 21.3.1986 and set aside the same. The respondents-railway administration are directed to reinstate the petitioner with back wages within 3 months from the date of this order. There will be, however, no order as to costs.

  
( P.M. JOSHI )  
JUDICIAL MEMBER

  
(P.H. TRIVEDI)  
VICE CHAIRMAN