

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 24 OF 1987
~~TAO No. 24~~

DATE OF DECISION 22-11-1988

SHRI CHATUR RANCHHOD Petitioner

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

Versus

UNION OF INDIA & ORS. Respondents

MR. R.M. VIN 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*

(16)

Shri Chatur Ranchhod,
C/o. Chief Permanent Way Inspector,
Western Railway,
Dholka,
Dist: Ahmedabad.

..... Petitioner.

(Advocate: Mr. Y.V.Shah)

Versus.

1. Union of India,
through the General Manager,
Western Railway,
Churchgate,
Bombay - 20.

2. Mr. J.C.Purohit or his
successor in the office,
Divisional Engineer,
Western Railway,
Bhavnagar.

3. C. Permanent Way Inspector,
Western Railway,
Dholka.

..... Respondents.

(Advocate: Mr. R.M.Vin)

J U D G M E N T

O.A.NO. 24 OF 1987

Date: 22-11-1988

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

The petitioner, Shri Chatur Ranchhod, has filed this application under section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred to as "the Act") on 19.1.1987. It is averred by the petitioner that he was initially engaged as casual labourer in the year 1974 and he had acquired temporary status. According to him, he has been retrenched from service by verbal orders passed on or about 1.2.1986 on the ground of surplus. It is therefore prayed by the petitioner that the impugned action in retrenching the petitioner from service be quashed and set aside as it is violative of Article 14,16 & 23 of the Constitution of India and

(3)

also violative of Sections 25F, 25G, 25H & 25N of the Industrial Disputes Act, 1947 and Rules 76A & C and 77 of the Industrial Disputes (Central) Rules 1957. He has further prayed that the respondents-railway administration be directed to absorb him in service with all consequential benefits including backwages and seniority above his juniors.

2. The respondents-railway administration in their counter denied the averments and the allegations made against them. According to them, the petitioner was engaged as casual labourer on daily wages on Dholka section under Permanent Way Inspector, Dholka, but did not work continuously for the requisite period and he has never reported for work leaving the employment as casual labourer of his own accord since 20.4.82 as per the details supplied in Annexure 'A'. It was therefore contended that the petitioner is not entitled to claim the relief as prayed for ^{on merits} and also on the ground of limitation. The petitioner in his rejoinder submitted inter-alia that even though it is assumed that the petitioner was engaged only on 19.10.1978 and worked upto 20.4.1982 as stated by the respondents he is entitled to the benefit of Railway Board's scheme as approved by the Supreme Court of India and reported in the case of Indrapal Yadav, 1985 S.C.C.(2) p.648, and he should be reinstated in service.

3. When the matter came up for hearing we have heard Mr.Y.V.Shah and Mr. R.M.Vin, the learned counsel for the petitioner and the respondents, respectively, at a considerable length. Both the sides were called upon to supply the information and materials in terms

(U)

of our directions issued on 16.6.1988 and in terms thereof they have placed the documents on record.

4. At the very outset, it may be stated here that the petitioner while filing the application and during the pendency of the proceedings has not produced the service card. It is the plea of the petitioner that he was initially engaged in the year 1974 and retrenched on or about 1.2.1986. It is his version that he has acquired temporary status and that he has been retrenched by verbal orders. These material averments could have been easily proved by producing the service card. A service card on prescribed form is given to each casual labourer as a documentary proof of his service in terms of instructions contained in para 2513 of Establishment Manual. Mr. B.S. Maine, in his Book on Railway Establishment Rules and Labour Laws (17th Edition 1988) while quoting Railway Board's letter dated 30.11.71 at page 423, has explained the utility and the importance of the service card and the entries of service made therein, as each sub-ordinate officers are required to make them without fail before discharging a casual labourer. When a casual labourer is on authorised absence that does not constitute a break for counting towards the four month's period for conferring temporary status. It is undisputed that such "authorised absence" has to be shown as service. No separate entry for such break is necessary. In the case of loss of card, it should be reported to the nearest police station and a copy of F.I.R. lodged with the police should be furnished to the railway authorities.

5. The stand of the respondents-railway administration is that the petitioner has materially

(B)

suppressed his service particulars and has come out with a false plea that he has been retrenched verbally on or about 1.2.1986, especially, when as a matter of fact he has never reported for work since 20.4.1982. Relying on the case of Buckingham & Carnatic Co. V/s. Venkatiah & Anrs. (A.I.R. 1964 S.C. 1272) it was contended by Mr. R.M.Vin, the learned counsel for the respondents that the petitioner having abandoned or relinquished the service as back as on 20.4.1982, he is not entitled to any relief and his cause is also otherwise barred by limitation. Mr. Y.V.Shah, the learned counsel for the petitioner, during the course of his submissions had preferred to refer to several cases reported in A.I.R. 1986 S.C. 132, A.I.R. 1978 S.C. 8, A.I.R. 1982 S.C. 854, A.I.R. 1979 S.C. 582 & A.I.R. 1988 S.C. 390. Suffice it to say, that the broad principles laid down therein are not disputed. Having regard to the facts of the present case, they are all distinguishable and not applicable in the present case.

6. On the basis of the materials and the records produced before us it is duly established that the petitioner worked as casual labourer during the following periods only.

21.10.78 to 20.11.78	-	31	-	2
(pl.see Ann.R2 Sr.No.73 page 8 (Reverse))				
21.11.78 to 20.12.78	-	20		
21.12.78 to 20.1.79	-	31	CTR work	
21.1.79 to 20.2.79	-	21	"	
21.2.79 to 20.3.79	-	28	"	
(Pl see Ann.R6 Sr.No.116 page 12 (Reverse))				
21.3.79 to 30.4.79	-	09	"	
21.4.79 to 20.5.79	-	20	"	
21.5.79 to 20.6.79	-	11	"	
(pl see Ann.R8 Sr.No.101 page 10 (Reverse))				
21.6.79 to 20.7.79	-	26	"	
21.7.79 to 20.8.79	-	22	"	
21.8.79 to 20.9.79	-	14	"	
21.9.79 to 20.10.79	-	20	"	
(pl see Ann.R4 Sr.No.75 page 8 (Reverse))				
21.10.79 to 20.11.79	-	00	"	

(6)

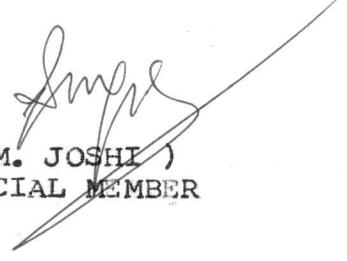
21.11.79 to 20.12.79	- 24 - 14
21.12.79 to 20.1.80	- 6
21.1.80 to 21.8.81	- Not on work
21.8.81 to 20.9.81	- 24
21.9.81 to 20.10.81	- 06
21.10.81 to 20.11.81	- 25 + 11
21.11.81 to 20.12.81	- 24
21.12.81 to 20.1.82	- 23
21.1.82 to 20.2.82	- 26
21.2.82 to 20.3.82	- 24
(pl see Ann R35 Sr.No.24 page-2 (Reverse))	
21.3.82 to 20.4.82	- 25
(pl see Ann.R21 Sr.No.23 page 2 (Reverse))	

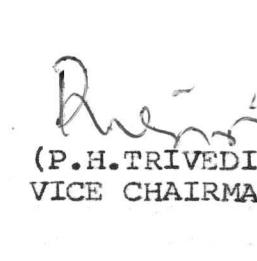
7. It is thus quite evident that the petitioner last worked as casual labourer upto 20.4.1982. It is pertinent to note that it is not the case of the petitioner that his services are terminated by any order of retrenchment in writing. He has come out with a plea that he has been orally retrenched from service on or about 1.2.1986. Presumably, he has come out with such a version inorder to conceal his long absence since 20.4.1982, indicating his voluntarily abandoning the employment. A person like the petitioner can hardly afford to remain absent without being gainfully engaged elsewhere. Ordinarily, in case of difficulty or inability to attend, a casual labourer would either inform the higher officer or make any representation himself or through recognised trade union or approach competent Court or Tribunal for redressal of his grievance. Nothing of the sort seems to have been done by the petitioner in this case. For the first time, in the application filed by him on 19.1.1987, he has come out with a version that he has been orally retrenched from service on or about 1.2.1986.

8. It is true that under common law an inference that an employee has abandoned or relinquished service is not easily drawn unless from the length of absence and from other surrounding circumstances, an inference to that effect can be legitimately drawn and it can be

assumed that the employee intended to abandon service. Bearing in mind all the facts and circumstances of this case, we have no hesitation in holding that the petitioner intended to abandon service since 20.4.1982. Thus, as petitioner has relinquished the service since the said date, he is not entitled to the relief as prayed for. More over there are grounds to believe that the grievance, if any had arisen in April 1982, that is three years prior to 1.1.1985. A perusal of ^{of the Act} Section 21(2) clearly shows that if the grievance had arisen by reason of action or order made beyond three years from the date, the Tribunal exercised its jurisdiction in respect of the matter to which such action or order relates, then the application can not be admitted (see Shri A.C. Bose V/s. Union of India & Ors. A.T.R. 1986(2) C.A.T. 642). It is not established that petitioner had worked as casual labourer on project. It is therefore difficult to hold that petitioner can claim any benefit of the scheme prepared by the Railway Board, in terms of the directions issued in the case of Indrapal Yadav (supra).

9. In the facts and circumstances of the case, it is clear that the petitioner has failed to establish his claim. Accordingly, the application has no merit and fails. The application therefore stands dismissed, with no order as to costs.


(P.M. JOSHI)
JUDICIAL MEMBER


(P.H. TRIVEDI)
VICE CHAIRMAN