

  
CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH  
~~NEW WXXDXE LX HK~~



O.A. No. 284  
~~TAX NO.~~

1987

DATE OF DECISION 16.4.1990

Laloo Okha

Petitioner

Mr. C.H. Vora

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. B.R. Kyada

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?

SK  
(D)

O.A. No. 284 of 1987

Laloo Okha,  
SDX-South-84,  
Gandhidham (Kutch)  
Dist. Kutch  
(Advocate-Mr. C.H. Vora)

.. Applicant

Versus

1. Union of India,  
Through,  
Divisional Railway Manager,  
Western Railway,  
Ajmer.
2. Senior Divisional Engineer(II),  
Western Railway,  
Ajmer.
3. Assistant Engineer,  
Western Railway,  
Gandhidham,  
Dist. Kutch.

.. Respondents

(Advocate-Mr. B.R. Kyada)

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

O R D E R

Date : 16.4.1990

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

Neither petitioner nor his advocate present.

Learned advocate Mr. B.R. Kyada for the respondents heard. After hearing him, we do not find that there is any proper reply to the contention raised by the petitioner in para 6:8 and 6:10 of this petition.

There is a clear finding by the Assistant Labour Commissioner that in the circumstances of the case and of his observation at Annexure 'H', this is a case in which removal from service amounting to retrenchment, which attracts provision of section 25(f) of the Industrial Disputes Act which has not been complied with and therefore the removal from

10  
9

service amounting to retrenchment is not legal, to this there is no reply. Merely stating that this is another issue or that the Assistant Labour Commissioner is not competent to pronounce upon the legality upon the disciplinary proceedings does not satisfactorily replied the contention of the petitioner. Learned advocate was asked whether there is any provision of appeal against the orders of the Assistant Labour Commissioner and if so, such appeal was made, but he could not give any reply to it.

2. In the circumstances, we are unable to say that the Disciplinary Proceedings, Appellate Authority's orders and the Revisionary Authority's orders having not dealt with this matter are not ~~faulty~~. The impugned orders therefore has to be quashed and set aside and the petitioner reinstated in service unless he has already retired. The learned advocate for the respondents stated that the respondents should be left free to initiate disciplinary proceedings, If they consider <sup>worthwhile</sup> the matter, they are allowed to do so provided the proceedings are legal and meet with the contention of the petitioner.

With the above observation, we find that the petition has merit and the orders dt. 18.7.1983, 12.9.1985 and 15.9.1986 are quashed and set aside and the petitioner is ordered to be reinstated in service. The petitioner may make an application for back wages if he is not in the meantime employed. Accordingly, the case is disposed of. No order as to costs.

  
( N Dharmadan )  
Judicial Member

  
( P H Trivedi )  
Vice Chairman