

9  
CAT/3/12

1/2  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 444 OF 1987.  
~~TexxNox~~

DATE OF DECISION 15-10-1991.

Shri Bhimabhai N. Vankar & Ors. Petitioners.

Mrs. K.V. Sampat, Advocate for the Petitioners)

Versus

Central Horticultural Experiment Respondents.  
Station & Ors.

Mr. Mukesh Patel for Mr. Jayant Patel Advocate for the Respondents(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member

The Hon'ble Mr. R.C. Bhatt, 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.*

1. Shri Bhimabhai Nathabhai Vankar  
2. Shri Ramjibhai Kanabhai Vankar  
3. Shri Jashwantsingh Samatsingh Chauhan  
All c/o. Shri M.V. Jadhav,  
Office bearer, Bharatiya Karmachari Singh  
Shastri Pole, Koti Char Rasta,  
Baroda.

... Applicants.

(Advocate: Mrs. K.V. Sampat)

Versus.

1) Central Horticultural Experiment  
Station, (Notice to be served  
through Scientist & Head,  
Ambawadi, Civil Line,  
Godhra - 389 001.

2) Indian Institute of Horticultural  
Research, 255, Apart, Palace,  
Bangalore - 80. ....

Respondents.

(Advocate: Mr. Mukesh Patel for  
Mr. Jayant Patel)

J U D G M E N T

O.A. No. 444 OF 1987

Date: 15-10-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The three applicants who assert that they had been employed as watchman by the first respondent, namely, the Central Horticultural Experiment Station, Godhra with effect from 31.7.79, 31.7.79 and 1.11.83 respectively, have in their joint original application under section 19 of the Administrative Tribunals Act, 1985, questioned their termination from service respectively, of the first two applicants from 31.3.87 and of the third applicant from 23.7.87 without any notice as required under section 25 F of the Industrial Disputes Act, 1947. It is alleged that in the begining of the employment, after every six months a break of one month used to be introduced. This practice continued upto December 1983. But after January 1984 the break came in the month of November 1984 and 1985 and in December of 1986. Then came the

termination of their services. The applicants have also alleged that several casual watchmen were made permanent in the meantime and that the sanctioned strength rose from 40 in 1981 to 60 in 1982 and to 150 in 1986. The application is silent whether this strength is of watchmen or of any other cadre or the total muster roll of the first respondent office. It is noticed that in the copy of the application kept in the second file, this strength is stated to be of watchmen. But in the first copy the words "as watchmen" stands scored out. The work is stated to be of perennial nature which admits of no breaks and the breaks in the employment of the applicants therefore artificial and given only with the purpose of depriving the applicants the benefit of permanency and after every break of 30 days the applicants were reemployed. From the context, it appears that this averment has been made with regard to the work of watchmen. It is further averred that each applicant had completed 240 days of engagement and therefore termination of service without notice allegedly constituted a breach of the provisions of Section 25(F) of the Industrial Disputes Act. However, no material to substantiate this claim has been produced. Reliance is placed on Supreme Court judgments in Sundermoney Vs. State Bank, AIR, 1976 SC 1111 and Rattan Lal & Ors. Vs. State of Haryana AIR 1987 SC 478. It is also averred that the respondents had issued notice to appoint fresh hands which allegedly constitutes violation of the provisions of Sections 25 G and 25 H of the Industrial Disputes Act.

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2. The application above, though alleges that the respondents have committed a breach of the various provisions of the Industrial Disputes Act, remained silent about the nature and purpose of activity of the respondents and how and why the same becomes an industry. Again, except for declaring in the application that the subject matter of the application falls within the jurisdiction of the Tribunal and that the Tribunal has jurisdiction under section 21(SIC) of the Act, the pleadings are silent about how this Tribunal got jurisdiction in the case in terms of the provisions of section 14 of the Act. Also, while the first two applicants came to be appointed and terminated on the same dates, the third applicant came to be appointed and terminated on different dates. Neither commonality of their interest has been shown nor an application for permission to file joint application made.

3. The respondents' reply avers that this Tribunal has no jurisdiction to entertain the grievances of the applicants. It is averred that the applicants were daily paid unskilled agricultural labourers given work which arose seasonally in horticultural operations, including watch and ward work. It is averred that the applicants did not on their own come for work from July 1987 onwards. It is denied that the applicants were even appointed on a regular basis. It is denied that the respondents' organisation is an industry and therefore question of retrenchment of hands of the kind the applicants were does not arise. The respondents deny a regular strength of 150 in 1986 but aver that labourers were engaged as per seasonal needs of agricultural work. Work for 240 days during a single year claimed by the applicants is also

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denied. It is averred that the respondents' organisation is under the control of the Indian Institute of Horticultural Research Bangalore, which is a constituent organisation of the Indian Council of Agricultural Research which is a society registered under the provisions of the Societies Registration Act, 1960. The respondents also say that the precedents relied upon by the applicants are not applicable to the facts of the case of the applicants herein.

4. In the rejoinder of the applicants, reliance is placed on the judgment in R.Ashokan Vs.District Manager, Telephones, Trivandrum, the copy of which has been produced (Annexure A-3) with the rejoinder. It is stated that this judgment holds that this Tribunal has been given jurisdiction over service matters of ICAR from 20.4.1987 by notification No. GSR 409(E) issued by Government of India under Section 14(3) of the Administrative Tribunals Act. The rejoinder repeats that the application is filed "..... within the meaning of section 21 of CAT Act 1985....." and the contents of the application with regard to the duration of employment and artificial breaks have been reiterated. While it is averred in the application that the services of the first two applicants were terminated with effect from 31.3.1987 and of the third applicant with effect from 23.7.87, the rejoinder alleges that " The applicants are not taken in service since April 1987 onwards inspite of their request to the opponents", thereby implying as if all the three applicants were rendered jobless since April 1987. A further contention in the rejoinder is that for absence from duty, even a casual labourer is entitled to a legal notice to show cause why his services should not be terminated due to absence without leave as

decided in O.A.No. 740/87 on 23.9.88 of Madras Bench reported in(1989) 9 ATC page 158. It is also contended that with the respondents alleging in their reply that the applicants had fallen absent, the onus to so prove is on the respondents which the respondents allegedly failed to discharge. It is further contended that the respondents are expected to work as model employers as held by the Supreme Court in the case Surindersingh Vs. Engineer-in-Chief CPWD, AIR 1986 SC 584. Equal pay for equal work also claimed on the basis of the judgment of the Supreme Court in Nehru Yuval Kendra case. It is further averred in the rejoinder that "..... the opponent is an industry within the provision of section 2(j) of the Industrial Disputes Act according to " and Bangalore Water Supply case (AIR 1978 SC 548) relied upon to assert that the respondent is an industry.

5. The learned counsel for the applicant submitted written arguments in which it is maintained that the first two applicants joined as Watchmen from 31.7.79 and continued as such upto 31.3.87 and the third applicant had joined on 1.11.83 and terminated from service on 23.7.87. Judgment of the Supreme Court in Bangalore Water Supply case, supra, has been relied upon to urge that the respondents being a research institution are an industry.

6. None appeared for the respondents at the final hearing and no written arguments also came to be submitted.

7. We have above briefly referred to the filing of this joint application without any claim in the application that common interest exists among the applicants and no application for filing of joint application made. Ignoring of Provisions of Rule 4(5)(a)

of the Central Administrative Tribunal (Procedure) Rules 1987 in this regard may sometimes prove perilous to common applicants themselves as can be seen from the case before us. It is seen from the pleadings that the first respondent is under the Indian Institute of Horticultural Research which, in turn, is an organisation working under the Indian Council of Scientific & Agricultural Research. Hence, the employees of the first respondent are required to be taken as employees of the ICAR. Provisions of section 15(3) of the Administrative Tribunals Act, 1985 were applied to the ICAR with effect from the 15th day of May 1987 by the Ministry of Personnel, Public Grievances & Pensions (Department of Personnel and Training) Notification No. G.S.R. 409 E dated April 20, 1987 issued in exercise of the powers conferred by Section 14(2). The text of the notification is reproduced below :

"In exercise of the powers conferred by sub-section (2) of Section 14 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby specifies the 15th day of May, 1987 as the date on and from which the provisions of sub-section (3) of Section 14 of the said Act shall apply to the Indian Council of Agricultural Research being a society owned or controlled by Government, and makes the following amendment in the notification of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel & Training) No. G.S.R. 730(E) dated the 2nd May, 1986, namely :-

In the said notification, in the Schedule after Serial Number 7 and entries relating thereto, the following shall be inserted, namely :-

|   |  |
|---|--|
| "8. Indian Council of Agricultural Research | A Society controlled by the Government." |
|---|--|

The first two applicants were, according to their own showing in their application, rejoinder and written arguments, terminated on 31.3.1987. For the third applicant, while the application mentions 23.7.87 as the date of termination, the rejoinder, as observed earlier, mentions "since April 1987.....". The contents of the rejoinder that the Tribunal was given jurisdiction over ICAR from 20.4.87 is erroneous. 20.4.87 is the date of the above notification and not the date of commencement of jurisdiction of the Tribunal. The date of the commencement of jurisdiction of the Tribunal is "15th day of May 1987" as is clear from the above notification. With the first two applicants, on their own showing, terminated on 31.3.1987 when the Tribunal did not have jurisdiction to entertain grievances of ICAR employees, the grievance of the first two applicants cannot be entertained by this Tribunal for adjudication for reason of cause of action having arisen on a date prior to 15th day of May 1987, the date from which the provisions of the Administrative Tribunals Act, 1985, came to be applied to the ICAR.

8. Regarding the third applicant, examining on the basis of 23.7.87 as the date of his termination, we have observed above that there is no material produced by the applicants to support their contention of qualifying period of 240 days of work in a period of 12 calendar months prior to the date of alleged termination in terms of the provisions of section 25-B(2)(a)(ii) of the Industrial Disputes Act without going into the question whether horticultural operations are also industry in terms of the triple elements of industry laid down in the Bangalore Water Supply case by the Supreme Court. According to the respondents'

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reply, the applicants had stopped coming for work. In the written arguments for the applicants, it has been argued that the onus for proving that the applicants had fallen absent is on the respondents which the respondents have failed to discharge and no legal notice issued to show cause why for reason of unauthorised absence the services should not be terminated. Considering this argument with regard to the third applicant whose case alone now remains to be considered, the reliance placed in Madras Bench judgment in O.A. 740/87 decided on 23.9.1988 is of no help to the third applicant. In the Madras Bench case, the applicant was a temporary status acquired railway gangman who had met with an accident and was given alternative job as a casual watchman. In case of the third applicant, no rules about acquiring of temporary status in case applicable have been shown to us and claim of continuous work of 240 days in 12 calendar months prior to the date of termination also not substantiated and respondents contending that the nature of work is seasonal and work given accordingly, as earlier seen.

9. Thus, the application, so far as the first two applicants are concerned, has to be, as we earlier / dismissed in the absence of application of provisions of the Tribunal when the cause of action had arisen. So far as the third applicant is concerned, the application has to be dismissed for reasons above stated. We therefore hereby dismiss the application without any order as to costs.

*R.C.Bhatt*

(R.C.Bhatt)  
Judicial Member

*M.M.Singh*  
15.10.91

(M.M. Singh)  
Administrative Member

## Office Report

## ORDER

(S)

Mr. Kureshi files appearance for the respondents. The case is remanded to the Tribunal by the Hon'ble Supreme Court.

Intimation of the date of final hearing be issued to the applicant and his Advocate. May be fixed for final hearing on 2.12.94.

12  
O.A. No: 444/87  
(K.Ramamoorthy)  
Member (A)

7  
(N.B. Patel )  
Vice Chairman

npm  
O.A. No: 444/87  
(K.Ramamoorthy)

All the three applicants are served with the intimation regarding listing of the matter today. The applicants' advocate must also have been so served as the notice is issued to her also. However, none is present. Even then we adjourn the case to 9.12.1994 to give one last opportunity to the applicant.

12  
(K.Ramamoorthy )  
Member (A)

7  
(N.B. Patel )  
Vice Chairman

npm  
O.A. No: 444/87

12  
The applicant and his advocate are not present.

As the <sup>other</sup> ~~other~~ Member of  
the Tribunal is not available,  
the matter is adjourned  
to.....9.....

12  
(N. B. Patel)  
Vice Chairman

| Office Report | ORDER  |
|---------------|--|
| 9.1.95        | <p>All the three applicants are earlier seen with as per the intimation about the hearing. However none present even today. Office has received a letter dated 28th December, 1994 from the applicant No.1 stating that she has terminated the authority of his advocate. The applicants may again be informed that hearing will be taken up on 30.1.95.</p> <p>Call on 30.1.95.</p> <p>vtc.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel,<br/>Vice Chairman)</p> |
| 30/1/95       | <p>Mr. Y.V. Shah files appearance today for applicant and seeks time. Adjourned to 2/2/95.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel,<br/>Vice Chairman)</p>   |
| 23-2-95       | <p>Mr. Y.V. Shah and the applicant are not present. However, adjourned to 28-2-95 in the interest of justice.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel,<br/>Vice Chairman)</p>  |
|               | <p>vtc.</p>  |

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| Date    | Office Report | ORDER   |
|---------|---------------|---|
| 28-2-95 |               | <p>Adjourned to 8-3-95, at the request of Mr. Kureshi for filing reply to the M.A. 147/95 and for final hearing.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p> <p>ssh*</p>   |
| 8.3.95  |               | <p><u>O.A. 444/87 with M.A. 147/95</u></p> <p>Heard Mr. Shah and Mr. Kureshi. The respondents are directed to produce such of the documents out of the same mentioned at Sr. No. 1, 2 &amp; 3 in the M.A. as are in their custody. If any of the documents are not in their custody affidavit regarding those documents may be filed. This may be done latest by 22.3.1995. M.A. stands disposed of accordingly. Final hearing adjourned to 24-3-1995.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p> <p>vtc.</p> |
| 2-95    |               | <p>Adjourned to 19-4-95, at the request of Mr. Kureshi as attempts are being made to trace the documents, but some of the documents are likely to be at Bangalore, if at all they are preserved.</p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p> <p>ssh*</p>   |

| Date    | Office Report | ORDER  |
|---------|---------------|--|
| 19.4.95 |               | <p>Time being over, adjourned to 5.5.1995.</p> <p><i>R</i></p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p>                              |
| 5.5.95  |               | <p>Leave note filed by Mr. Akil Kureshi.</p> <p>Adjourned to 21-6-1995.</p> <p><i>R</i></p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p> |
| 21.6.95 |               | <p>Arguments heard in part. Adjourned to 5.7.1995.</p> <p><i>R</i></p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p>                      |
| 5.7.95  |               | <p>Arguments heard. Reserved for judgement.</p> <p><i>R</i></p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p>                             |
| 4.8.95  |               | <p>Judgement pronounced on Court on 4.8.95</p> <p><i>R</i></p> <p>(K. Ramamoorthy)<br/>Member (A)</p> <p>(N.B. Patel)<br/>Vice Chairman</p>                              |

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CAT/J/13

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A. NO. 444 of 1987**

~~TX-1000X~~

**DATE OF DECISION** 4-8-1995

Bhimabhai Nathabhai Vankar & Ors. Petitioner

Mr. Y.V. Shah

Advocate for the Petitioner (s)

Versus

Central Horticultural Experiment Station & Another Respondent

Mr. Akil Kureishi

Advocate for the Respondent (s)

**CORAM**

• The Hon'ble Mr. N.B. Patel, Vice Chairman

The Hon'ble Mr. K. Ramamoorthy, Member (A)

**JUDGMENT**

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

NP

CAT/1/18

# CENTRAL ADMINISTRATIVE TRIBUNAL

ADDRESS: 10, BURGESS ROAD, BIRMINGHAM, B3 2QH

0.4.20

0.4.20

## DATE OF DECISION

Petitioner

Advocate for the Petitioner (s)

as

Respondent

Advocate for the Respondent (s)

COURT

The Honourable Mr Justice [REDACTED]

The Honourable Mr Justice [REDACTED]

## JUDGEMENT

1. Whether the Petitioner(s) or the Respondent(s) may be shown to be in the right, the
2. To be referred to the Radio for [REDACTED]
3. Whether further for publication of the full copy to the judgment is
4. Whether it needs to be done in the name of the Central Administrative Tribunal.

Shri Bhimabhai Nathabhai Vankar & Others  
C/o Shri M.V. Jadhav,  
Office Bearer, Bharatiya Karmachari Sangh,  
Shastri Pole, Koti Char Rasta,  
Baroda. .... Applicants

(Advocate : Mr. Y.V. Shah)

**Versus**

1. Central Horticultural Experiment  
Station Through  
Scientist & Head, Ambawadi,  
Civil Line,  
Godhara - 389 001.
2. Indian Institute of Horticultural  
Research,  
255, Apart Palace,  
Bangalore-80.

.... Respondents

(Advocate : Mr. Akil Kureshi)

JUDGMENT

O.A. No. 444 of 1987

Date : 4-8-1995

Per : Hon'ble Mr.K. Ramamoorthy, Member (A)

The Hon'ble Supreme Court by its order dated 27-1-1994 in Civil Appeal No.6071/94 remitted this case back to this Tribunal for disposal. Though the present applicant along with the two other applicants filed petition before this Tribunal which had been rejected on 15-10-1991 by this Tribunal, jurisdictional question being one of the issues raised therein, However, the Hon'ble Supreme Court has remitted one case of the applicant only to this Tribunal for consideration on merit.

VJ

2. The case of the applicant is that he had been working with the respondent department for over a period of 7 years. He was engaged as casual labourer on 31-7-1979 and his services were terminated by an order of termination dated 31-3-1987. The department had, however, continued to engage the services of employees who had joined subsequently to the present applicant and had also regularised the services of some persons junior to the applicant. The applicant, therefore, had claimed relief under secs. 25 F, G and H of the Industrial Disputes Act for quashing the oral order of termination.

3. At the outset it is conceded by the learned counsel for the applicant that as regards operation of section 25 F, the applicant had not put in 240 days during the year preceding the date of alleged termination of the service of the applicant. The applicant had put in only 196 days of work during the preceding year. However, the counsel for the applicant reiterated the fact that the respondent Government Department had committed breach of secs. 25G and H, in view of the specific action of the department as alleged in his application as under:

" It is pertinent to submit that one Shri Ganpatbhai Vankar has been made permanent on the post of Watchman in 1983. In other case, arbitrariness is clear when one Shri Chhagan Bhai K. Vankar casual watchman taken on 24-11-1986 and made permanent on 24-2-1987. Also to emphatically submit that batch of 1979 casual watchmen have been made permanent whose names are as such: (1) Fatesingh T. Patel (2) Marut Singh G. Parmar (3) Dolatsinh S. Chavada (4) Khumanbhai S. Chauhan dropping applicants and subsequently terminating their services which is violative of Articles 14 and 16 of Constitution of India."

(23)

4. In their reply, the respondents have stated that this was not a question of termination but a case of abandonment by the applicant since he had not turned up for work since July, 1987. The learned counsel for the respondents also stated that the Central Horticultural Experiment Station cannot be considered to be an 'industry' under the Industrial Disputes Act. He also contended that there was no specific averment regarding section 25 H that the case of Shri Vankar could not be considered at par with the applicant in as much as this particular candidate was selected for watchman through interview. The fact of other employees being made permanent is not disputed. The respondents have stated that the documents regarding the actual days of work put in etc. had been destroyed since the concerned documents had become old and due for destruction. Be that as it may, in the absence of any specific record which is said to have been destroyed despite the pendency of this litigation, we have to hold that the contention of the applicant that persons junior to him have been retained and given work cannot be considered to have been rebutted.

5. On an overall consideration of the matter, this tribunal does come to the conclusion that even without going into the specific question as to whether the respondent department could be considered as 'industry' or not, the fact of discriminatory treatment, violative of Articles 14 and 16 of the Constitution of India, has to be accepted if the applicant's claim that his services were terminated while his juniors were retained

is found to be accepted by the Tribunal. We accept that contention rejecting the theory of abandonment put forward by the respondents in view of the fact that the applicant had approached this Tribunal on 7-9-1987 itself, i.e. within two months from the alleged act of abandonment of the job by the applicant. Since the applicant's termination is held to be violative of Articles 14 and 16 of the Constitution on the basis of adverse inference, he cannot be allowed to disturb the seniority and other benefits acquired by other employees who are already in job at the time of his reinstatement. It will be natural to presume that the applicant must have at least partly employed himself gainfully in the intervening period and cannot be awarded full back wages.

6. In view of the above reasons, the petition succeeds. The respondent department is directed to reinstate the applicant in service. The respondent department is also directed to pay 50% of the wages due as being the quantum of back wages to be paid to the applicant, in view of the illegal termination of the service. The act of reinstatement of the present applicant will not confer on him any right to claim seniority over persons who have been continued and have obtained permanent status prior to his reinstatement. However, the present applicant will have to be given status of temporary servant and permanency thereafter, taking into account the earlier service put in by him.

Communications should be  
addressed to the Registrar.  
The Court, by designation.  
My name  
Graphic address :—  
"SUPREMECO"

DS 6/201  
56/201

Central Administrative Tribunal  
At New Delhi  
Toward No. 18025  
Date 06/02/95  
D.No. 32/92/Sec. IX

S.23/9

**SUPREME COURT  
INDIA**

Dated New Delhi, the 27th January, 1995 19

FROM Assistant Registrar,  
Supreme Court of India.

TO The Registrar,  
Central Administrative Tribunal,  
Ahmedabad Bench at Ahmedabad.

CIVIL APPEAL NO. 6071 OF 1994  
(From Central Administrative Tribunal Judgment &  
Order dated 15th October, 1991 in C.A. No. 444 of 1987)

Shri Bhimebhai Nathabhai Vankar & Anr. .. Appellants  
-Vs-

Central Horticultural Experiment  
Station & Ors. .. Respondents

CORRIGENDUM

Sir,

In continuation of this Registry's letter dated 20th  
September, 1994 in the above-mentioned matter, I am to  
transmit a certified copy of the Signed Order duly corrected,  
relating to the correct name of the Petitioner/Appellant No. 2.

Yours faithfully,

*Par Bhan*  
Assistant Registrar

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO 661 OF 1994

8 567552

(In Special Leave Petition(Civil) No. 260 of 1992)

Bhimabhai N Vankar and another ..

Appellants

vs.

Central Hosticultural Experiment ..  
Station and others

Respondents

Certified to be true copy

*Am 13/11/94*  
Assistant Registrar (Jud.)

*28/11/94*  
Supreme Court of India

7.10.94

Leave granted to petitioner No. 1 - Bhimabhai N. Vankar  
and leave declined to petitioner No. 2 - Ramajibhai Vankar. Chauhan

This appeal directed against the order dated 15.10.91 of the Central Administrative Tribunal Ahmedabad Bench, passed in O.A. No. 444 of 1987, would raise only one point for consideration which is, whether the appellant was rightly denied the remedy of approaching the tribunal for relief.

On his termination of services, the appellant No. 1 Bhimabhai N. Vankar, had a grievance and his remedy lay in approaching some court of law. At the time when the cause arose, the Central Administrative Tribunal had not been invested with powers to hear such a matter. It is left to guess which court could he have approached, the High Court or the Industrial Court or any other court in the country competent to grant relief. The fact is that he did not approach any court. It seems when the Central Administrative Tribunal was set up, the appellant filed his case before it. The tribunal refused to entertain it on the ground that the cause of action when arisen did not fall within the jurisdiction vested in the tribunal.

contd.

(209)

The Tribunal's reason for refusal to exercise jurisdiction, as it appears to us, is not sound. The appellant could not be left without a remedy. Had he availed himself of his remedy in any other court, prior to the jurisdiction vesting in the tribunal, that proceeding would have with effect from the vesting of the jurisdiction in the tribunal been transferred to the tribunal by the court hearing the matter. If that be the position, we see no reason why the tribunal could not have entertained the cause of the appellant directly. Therefore, we reverse the order of the tribunal and in doing so and setting aside the impugned order, we allow this appeal and remit the matter back to the tribunal for disposal of the matter filed by the appellant expeditiously in accordance with law. Ordered accordingly. No costs.

*Dr. Arun Kumar*

.....J  
(Madan Mohan Punchhi)

*Fazl*  
.....J  
(Fazl Uddin)

*K. Jayachandra Reddy*  
.....J  
(K. Jayachandra Reddy)

New Delhi,  
September 15, 1994



SEALED IN MY PRESENCE

APR  
29/11/05

(29)

| Date       | Office report | Order  |
|------------|---------------|--|
| 28-11-95   |               | <p>Mr.Y.V.Shah is not present. Adjourned to 12-12-95 at the request of Mr.Kureshi as he wants to find out as to what is the development in the matter of reference by the local office to the higher authorities.</p> <p><i>VR</i></p> <p>(V.Radhakrishnan)<br/>Member (A)</p> |
| 12-12-1995 |               | <p>Mr. Y.V. Shah is not present. Adjurned to 14-12-1995.</p> <p><i>VR</i></p> <p>(V. Radhakrishnan)<br/>Member (A)</p> <p><i>NP</i></p> <p>(N.B. Patel)<br/>Vice Chairman.</p> <p>*AS.</p>   |

(28)

| Date       | Office report | Order  |
|------------|---------------|--|
| 14-12-1995 |               | <p><u>M.A. 680/95 in O.A. 444/87</u></p> <p>Extension of time till 15-1-1996 granted only in respect of the direction to pay back-wages. M.A. disposed of accordingly.</p> <p><i>VR</i> <i>NP</i></p> <p>(V. Radhakrishnan) (N.B. Patel)<br/>Member (A) Vice Chairman.</p> <p>*AS.</p> |

Central Administrative Tribunal

Ahmedabad Bench

File No. 3203

Date 19/11/96

From

The Registrar

Supreme Court of India. 2003

NEW DELHI.

To

The Registrar

High Court of

Central Administrative Tribunal,

Ahmedabad Bench,

Ahmedabad.

Section - IV

SUPREME

NEW DELHI.

DATED - 24/04/76

31/11/2003  
SOLD

(3)

PETITIONS FOR SPECIAL LEAVE TO APPEAL CIVIL Nos. 18774-18775/96

(Petitions under Article 136(1) of the constitution of India from

the Judgment and Order dated 4/18/95

of the Central Administrative Tribunal Ahmedabad Bench  
in OA No 444/87 and dt 28/11/95 in BB No 61/95

BHEMABHAI NATHABHAI VANKAR

... PETITIONER(S)

- vs -

CENTRAL HORTICULTURAL EXPER., GODHRA BANR ... RESPONDENT(S)

Sir,

I am directed to inform you that the petitions above mentioned  
filed in the Supreme Court were dismissed  
by the Court on 09/09/96

Yours faithfully



For Registrar

COPY TO

MS. EUSHMA MANCHANDA (Adv)

For personal pleasure

- ① Hon'ble ~~Advocate~~ Vice Chairman 10/4/97
- ② Hon'ble Mr. V. <sup>Rajaram Shinde</sup> ~~Advocate~~, member CA 10/4/97
- ③ Hon'ble Mr. T. N. Bhal - Member (VS) 10/4/97