

Discretion (Jud)

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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NO XXXXXXXXXX~~

O.A. No.
~~XXXXXX~~

601 OF 1987

DATE OF DECISION 24-04-1991

Shri Parmar Vinubhai alias, Petitioner
Mansukhbhai Valjibhai

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

Versus

Union of India and others. Respondent

Shri R.M.Vin Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. S.Santhana Krishnan : 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?

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Shri Parmar Vinubhai alias,
Mansukhbhai Valjibhai,
C/o. Parmar Valjibhai Tejabhai,
Block No. 32,
Room No. 102,
Anandnagar,
Uttar Krishnanagar,
Bhavnagar.

...Applicant.

Versus

1. Union of India,
(Notice to be served through :
The General Manager,
Western Railway,
Church Gate,
Bombay - 400 001.
2. The Divisional Railway Manager,
Bhavnagar Division,
Western Railway,
Bhavnagar Para,
Bhavnagar.

.... Respondents.

J U D G M E N T

O.A. No. 601 OF 1987.

Date : 24-04-1991

Per : Hon'ble Mr. S. Santhana Krishnan : Judicial Member

In this application filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, the applicant originally required this court to extend the benefit of the judgment in TA 183 to 187 of 1987, delivered on 21.7.1987, be extended to them, and that his termination on 9.10.1982, is illegal and arbitrary. Subsequently, he amend^{ed} the prayer and now wants this court to direct the respondents to publish the seniority list of the casual labourers of the Bhavnagar Division in consonance with the scheme introduced by the Supreme Court in Indrapal's case and that the respondents should register his claim as per the Supreme Court's judgment.

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2. The applicant claims that he was originally working as casual labourer under the respondent from February, 5, 1980 to October, 8, 1982, and that he continuously worked for more than 120 days. He claims that the respondents issued a circular dated 20.3.1982, whereby casual labourers working in the coal section was shown as different class and this amounts to creation of artificial class. The petitioner was allowed to work upto 8.10.1982 and thereafter he was not permitted to resume duty on 9.10.1982. The other casual labourers who were placed in similar position challenged their termination and notification in T.A. 183 to 186 of 1987 and they have succeeded. The petitioner approached Shri Nanavati, the then Divisional Railway Manager who informed him that the outcome of the Judgment will be made applicable to the petitioner. Relying on the word and also in view of his weak financial position he did not file immediately any petition.

3. The respondents in their reply state that the applicant was not a party to T.A./183 to 186 of 1987, as such he cannot claim any benefit under the above said judgment. The petitioner worked under the respondents only for 25 days and that too in broken spells between 14.2.1980 and 28.4.1980. The present application is barred by limitation, in view of Section 21 of the Act. In respect of the Coal Loading it was done ^{originally} through contract, In 1980, ^{or} when the contractor terminated the contract, for a short period, the Railway Administration did the coal loading work. It is false to state that the petitioner worked continuously for over 120 days, as claimed by him. Mr. Nanavati is not working in the Railway. It is false to state that he gave any assurance to the petitioner. He has no authority to give any such alleged assurance. In

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the Railway record there is absolutely no note of any such assurance. The applicant is not a projected casual labourer and as such he cannot claim any benefit in this scheme. The applicant had worked for over 8 years outside and as such he cannot claim any relief against the respondents.

4. When the application was taken up for enquiry Mr.R.J.Oza counsel for applicant was absent, Mr.R.M.Vin argued for the respondents. Records were also perused.

5. The applicant now claims in his application that the scheme envisaged by the Supreme Court be implemented and he should be given benefit under the scheme. On the other hand in para 3 of the application the applicant still claims ^{that} the benefit of T.A. 183 to 186 of 1987, should be ^{extended} ~~granted~~ to him and he should be reinstated. This portion is still not amended.

6. The applicant will have to first establish that he has got a cause of action to file this application and this application is not barred by limitation. Admittedly the applicant was not allowed to resume duty on 9.10.1982. Hence, he ought to have filed an application within one year from this date. It is not his case that he made any representation in writing to the respondents about his termination. The applicant is not a party to T.A. 183 to 186 of 1987. Further, the applicant himself produces in annexure A-1, the copy of the judgment. The judgment does not anywhere states that the benefit should be extended to all other casual labourers placed ⁱⁿ ~~in~~ similar situation. When the applicant was aware that the other applicants have filed an application against their termination, if the

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applicant has got any grievance, he ought to have impleaded himself as a party in the above application. Further the present application is filed only on 23.11.1987, five years after the termination. The applicant failed to give any reasonable ^{explanation} in the application how the application is in time. The applicant has also not chosen to file any application under Section 21 (3) of the Administrative Tribunals Act. Hence there is no cause of ~~for~~ action for this application. The present application is also hopelessly barred by limitation.

7. Even ~~on~~ perusal of the plea show that the applicant in fact wants this Tribunal to enforce the judgment of the Supreme Court in the Indrapal's case. The applicant fails to ^{rely} on any provision of the Act whereby this court can enforce the Judgment of the Supreme Court. No authority is also produced by the applicant on this aspect. Hence we find that this court cannot enforce the judgment of the Supreme Court. Even on this ground the applicant is not entitled to claim any relief in his application.

8. Even, taking for granted that the applicant is entitled to the relief as claimed, the applicant will have to establish that he was working continuously under the respondents for over 120 days. The applicant states in his application that he had worked under the respondents between 5.2.1980 to 8.10.1982. He fails to produce any record to substantiate his claim. The applicant neither produced his service record nor copy of the Muster rolls to prove that he worked continuously under the respondents for over 120 days.

[Signature]

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9. The respondents specifically claimed in their reply that the applicant worked under them only for about 25 days, and they have also stated the period in para 12 of their reply. The applicant has not chosen to file any rejoinder disputing the same. Unless the applicant establishes that he had worked continuously under the respondents for over 120 days, he cannot claim any benefit either under Section 25 (F) of the Industrial Disputes Act or that his juniors were ~~affected~~. *Re Kamra*

10. As the applicant fails to establish that he had worked under the respondents continuously for over 120 days, he cannot claim any relief in this application. The applicant further claims that he approached one Mr. Nanavati the then Divisional Railway Manager, who informed him that the judgment under T.A. 183 to 186 of 1987 will be extended to him also. This is denied by the respondents. The applicant fails to produce any affidavit from the above said Mr. Nanavati, to prove that he ^{is given} any such assurance. As the present application is devoid of merits, the applicant is not entitled to claim any relief in this application, ^{and} as such the application stands dismissed. No order as to costs.

S. Santhana Krishnan
(S. Santhana Krishnan)
Judicial Member

M. M. Singh
(M. M. Singh)
Administrative Member