

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 AHMEDABAD BENCH
 NEW DEENK

O.A. No. 611
 T.A. No.

198 7

DATE OF DECISION 15.3.90

Dineshprasad R. Sharm Petitioner

Mr. G.A. Pandit Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

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

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, V.C.

The Hon'ble Mr. M.M. Singh, M (A)

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?

MGIPRRND-12 CAT/86-3-12-86-15,000

(G. Sreedharan Nair)
 Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH, AHMEDABAD

Registration No. O.A.611 of 1987

Date of order 15.3.1990.

Dineshprasad R. Sharma .. Applicant

- versus -

Union of India and others .. Respondents

CORAM:

Hon'ble Shri G.Sreedharan Nair, Vice-Chairman

Hon'ble Shri M.M. Singh, Member (Administrative)

Counsel for the applicant : Mr. G.A. Pandit.

Counsel for the respondents : Mr. R.M. Vin.

O R D E R

PER:Hon'ble Shri G.Sreedharan Nair, Vice-Chairman:-

The applicant, a temporary status attained casual Khalasi, who was working as a Box Boy, complains in this application about ^{the} termination of his service since 8.8.1987. It is urged that his juniors have been retained and as such the termination is arbitrary and illegal.

2. In the reply filed by the respondents, it is stated that the applicant was engaged as an unapproved substitute against the vacancy occurred on account of the retirement of one Budhia Bhai, and when one Anjankumar was transferred as regular Box Boy in the post held by Budhia Bhai, the applicant was discharged from service on 13.7.1987, but was re-engaged during the period July-August, 1987 when one Yadav absented

(6)

himself from duty. In ~~support~~^{Respect} of the plea of retention of juniors, it is contended in paragraph 9 of the reply that the plea is not correct as the three persons referred to by the applicant in the application are not working under the fourth respondent.

3. The short question that arises is whether the discharge of the applicant retaining his juniors is sustainable in law. It is settled that in case of discharge of casual labour on account of absence of work, the principle of "last come first go" has to be observed and failure to do so is arbitrary and violative of the guarantee provided under Articles 14 and 16 of the Constitution of India. The applicant has specifically stated in the application that Gautam, Vilas Rao Sahibras Patel and Budhdev Patel are juniors to him since he joined on 11.5.1984 and all of them had joined only thereafter. This averment has not been controverted in the reply filed by the respondents. The plea of discrimination has been attempted to be met only by the statement that the aforesaid three persons are not working under the fourth respondent. It was not disputed at the time of hearing that the seniority among the casual labour is maintained Division-wise and that the second respondent is the Head of the Division. As such, though the three persons referred to by the applicant are working under some other officer than the fourth respondent, it will not affect the seniority claimed by the applicant. The result is that this is a case where the applicant, a senior, has been discharged from service retaining the juniors. As such, the discharge is bad in law.

31
10

- 3 -

4. In the result, we hereby quash the termination of service of the applicant and direct the respondents to re-engage him in the capacity in which he was serving at the time of discharge. The applicant shall also be allowed all consequential benefits except the wages during the period from the date of discharge till the date of re-engagement.

5. The application is disposed of as above.

M. M. Singh
(M. M. Singh) B/89W
Member (A)

G. Sreedharan Nair
(G. Sreedharan Nair)
Vice-Chairman
15.3.1990

MA/874/88

in

OA/611/87

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

20/1/1989

Heard Mr.G.A.Pandit and Mr.R.M.Vin learned advocates for the applicant and the respondents. Registry to fix an early date. With this order, MA/874/88 stands disposed of.


(P.H. Trivedi)
Vice Chairman

a.a.bhatt