

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A / T.O No 653 1987

M. R. Vankar

Applicant(s)

37

N. J. Mehta

Versus

Union of India & Ors

Respondent(s)

J. D. Ajmera

Sr.No.

Date

Orders

1/1/88 Termination (Copy served to other side)

7/1/88
PI. issue notice reg. pre admission to respondent
- notice issued.
- ROAD received from respon. no. 2, which is filed in dt/5/1/88.
- ROAD received from respon. no. 1.

PI-issue notice reg. date to respondent's adw.
25/1/88
Date informed to applicant's adw. only
Noted please
copy

10/3/88
PI. issue notice reg. interim relief to respondent
- ROAD received from respon. no. 2, which is filed in dt/5/1/88.

Recd
21/1/88

38

Sr.No.	Date	Orders
6/7/88		<p>Mr. M. J. Mehta and Mr. J. D. Agnew request time. Allowed case be put up in due course.</p> <p><i>P. Maniar</i> 6/7 88. 6-7-88</p> <p><i>[Signature]</i> C. T. MANIAR Deputy Registrar, Central Administrative Tribunal AHMEDABAD</p>
19-3-90		<p>F/H Issue notice to Pin P regarding Advocates v. P. and F/H.</p> <p>— Notice returned unserved from applicant with endorsement - 'left'.</p>

① 39

CORAM : Hon'ble Mr. D.S. Mishra .. Administrative Member
Hon'ble Mr. P.M. Joshi .. Judicial Member

17/12/1987

Heard Mr. Radhakrishnan for Mr. M.D. Mehta, the learned counsel for the petitioner. According to him, the present petition is required to be automatically admitted by virtue of the order passed by this Tribunal in O.A./628/87 on 7.12.1987. It is not possible to agree with the submission made in this regard since no order ^{the effect} ~~of appointment~~ is placed on the record.

Pending admission. Issue notices to the respondents returnable on 7th January, 1988, that is the date on which O.A./628/87 has been fixed.

(P M Joshi)
Judicial Member

(D S Mishra)
Administrative Member

*Mogera

② 170

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. P.M. Joshi .. Judicial Member

7/1/1988

Mr. Radhakrishnan for Mr. N.J. Mehta learned advocate for the applicant present. The case be adjourned for a period of 10 days to enable the petitioner to carry out amendment in O.A./628/87. The case therefore be posted on 20th January, 1988 for admission.

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(P H Trivedi)
Vice Chairman

Jm

(P M Joshi)
Judicial Member

*Mogera

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O.A./653/87

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. P.M. Joshi .. Judicial Member

20/01/1988

Mr. Radhakrishnan for Mr. N.J. Mehta for the
applicant and Mr. P.N. Ajmera for Mr. J.D. Ajmera for
the respondents present. The case be put up with
O.A./628/87 for admission.

PH Trivedi
(P H Trivedi)
Vice Chairman

PM Joshi
(P M Joshi)
Judicial Member

*Mogera

(4) 42

OA/628/87, OA/651/87,
OA/652/87 & OA/653/87

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

: Vice Chairman

Hon'ble Mr. P.M. Joshi

: Judicial Member

28/1/1988

Heard learned advocates Mr. Radhakrishnan for Mr. N.J. Mehta and Mr. J.D. Ajmera for the applicants and the respondents. Mr. Radhakrishnan states that in OA/628/87 the petitioner No. 2 & 3 who remain after deletion of the rest of them by amendment now with a cause have only an apprehension regarding termination in the light of the orders passed regarding other similarly situated. In the case of applicants in OA/651/87, OA/652/87 and OA/653/87 the orders of termination have been passed respectively on 1/10/87, 20/12/86 and 9/12/87. This tribunal had on 7/12/1987 ordered the petition to be amended as the petition in OA/628/87 had disclosed persons who had apprehended termination having been joined with those in whose cases, termination had been verbally ordered. He has also cited Supreme Court Judgment in AIR 1986 SC 803 to support his contention that the canteen stores department has been decided to be an industry within the meaning of Industrial Disputes Act and as such the petitioners are workman protected by Section 25 F of that act. In this case it is admitted that no notice has been issued upon them or retrenchment compensation offered. The respondent's stand is as the canteen stores department caters only to defence personnel and not to the general public, the definition of industry cannot be stretched to cover them. The applicant has also urged that while they were verbally appointed, verbal termination without following procedure is not valid or legal especially after the petitioners have worked for about three years. He has also cited the judgments of the Bombay Bench of the Tribunal in OA/284/87, OA/286/87 and OA/288/87 allowing interim relief

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to the petitioners in those cases and has cited Supreme Court's judgment AIR 1986 SC 806 and AIR 1984 SC 653 to support his contention that even in matters of interim relief the benches should be covered by one another's decision in order to secure uniformity. Learned advocate for the respondent on the other hand has contended that the applicants have considered all material fact in so far as they were allowed an opportunity to a regular absorption by passing an examination held for the purpose and that they have failed and the regular appointees on success, in such examination are now available and termination has been caused for this reason. He has also stated that in OA/628/87, there is no order of termination and therefore there is no cause whatever. He also states that the circumstances and even the parties before the Bombay Bench of the Tribunal are not disclosed so that the applicability of that Bench's decision cannot be automatically presumed for the facts and the circumstances of this case. On perusal of the orders regarding interim relief of the Bombay Bench, it is seen that only status quo has been allowed to continue and in terms if that decision were followed, the applicant would have practically no relief.


2. After hearing the learned advocates for the applicants and the respondents, subject to the decision on merits and having regard to the fact that the Supreme Court has pronounced the canteen stores department's activities as covered by the Industrial Dispute Act, the petitioner in OA/651/87, OA/652/87, OA/653/87 and OA/628/87 are entitled to the protection of Section 25 F of that Act. As the petitioners in OA/628/87 have not been terminated, no order regarding interim relief in that case is necessary.

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So far as petitioners in OA/651/87, OA/652/87 and OA/653/87 are concerned, it is directed that the status quo as on the date of their applications be continued subject to and until the result of the case. In the case of OA/653/87 the date of the application be regarded as 4/12/87 and status quo as on that date be allowed to the applicant. The case be fixed on 10th March, 1988 for further direction.


(P.H. Trivedi)
Vice Chairman


(P.M. Joshi)
Judicial Member

a.a.bhatt

M.A./128/88

in

O.A./653/88

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CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. P.M. Joshi .. Judicial Member

18/02/1988

As the learned advocate for the petitioner has not filed application for contempt in proper form, the same cannot be treated as contempt application. Learned advocate may file contempt petition in proper form as required under the rules. As such this M.A./128/88 is disposed of accordingly.

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(P H Trivedi)
Vice Chairman

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(P M Joshi)
Judicial Member


*Mogera

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
Hon'ble Mr. P.M. Joshi .. Judicial Member

10/03/1988

Learned advocates Mr. Radhakrishnan for Mr. N.J. Mehta for the applicant and Mr. J.D. Ajmera for the respondents present. The case is ready for hearing and be posted on 6th July, 1988 for final hearing.


(P H Trivedi)
Vice Chairman


(P M Joshi)
Judicial Member

*Mogera

OA/628/87
with
MA/928/88

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AL

1. D.D. Amarkottiya,
2. H.N. Chamar,
C/o. M.R. Vankar,
16, 'Nilkamal',
Akhand Anand Society,
Omnagar, Asarwa,
Ahmedabad - 380 016.
(Party-in-person)

.. Applicants

Versus

1. Union of India,
Through
Maj. Gen. & General Manager,
Canteen Stores Department,
(Ministry of Defence),
'Adelphi' Maharshi Karve Rd.,
Bombay.
2. The Manager,
Canteen Stores Department,
Opp. Green Open Air Cinema,
Nr. Sadar Bazar, Cantonment,
Ahmedabad - 380 003.
(Advocate - Mr. J.D. Ajmera)

.. Respondents

OA/651/87

J.S. Shah,
49/6, Raipur Mills Hojwali Chawl,
O/s. Saraspur Gate,
Ahmedabad - 380 021.
(Party-in-person)

.. Applicant

Versus

(Same as above).

.. Respondents

OA/652/87

K.H. Patani
Ramchandra Mavjidas Chali,
Asarwa Chamanpura,
Ahmedabad-380 016.
(Party-in-person)

.. Applicant

Versus

(Same as above)

.. Respondents

OA/653/87

M.R. Vankar,
16, 'Nilkamal',
Akhandanand Society,
Omnagar, Asarwa, Ahmedabad
(Party-in-person)

.. Applicant

Versus

(Same as above)

.. Respondents

OA/654/87

H.M. Brahmabhatt,
2/53, P.A. Quarters,
Opp. Tatanagar,
Meghaninagar Road,
Ahmedabad - 380 016.

.. Applicants

(Party-in-person)

Versus

(Same as above)

.. Respondents

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

Hon'ble Mr. G.S. Nair .. Vice Chairman

C O M M O N - O R D E R

Date : 19.3.1990

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

In this batch of cases, the petitioners have approached the Tribunal under section 19 of the Administrative Tribunals Act, 1985 for the relief of reinstating the petitioners whose services have been wrongly terminated on the ground of their not passing the tests for regular appointments. The petitioners Mr. H.M. Brahmabhatt in OA/654/87 and Mr. Amarkotia in OA/628/87 and Mr. J.D. Ajmera, learned advocate for the respondents were present and heard. The petitioners wanted time to arrange the services of an advocate but it is found that the cases were adjourned several times and opportunity was available to the petitioners for arranging an advocate earlier. Mr. Ajmera's plea is that those petitioners who succeeded in the tests held for them have been given regular appointments and those petitioners who failed in the test have no case for claiming regularisation

as has been held in OA/19/88 decided by the Central Administrative Tribunal, Allahabad Bench on 18th May, 1989 and OA/322/87 decided by Jabalpur Bench on 28th July, 1988.

2. No other contention ^{which} will justify the continuation in service of the petitioners has been brought out. The petitioners cannot compare their case with those who have been given regular appointments on passing the required tests. Mere similarity of educational qualification or experience on daily rate wages basis cannot be equated with the fulfillment of requirement of passing the test and on equal pay for equal work principle, they cannot claim regularisation. The case cited by the petitioners in which the Supreme Court directed regularisation of daily rated employees does not apply because there is no direction that without regularisation, the wages and the terms of appointment of regular basis can be given to daily rate wages holders and in this case for regularisation, tests have been offered to the petitioners who have failed therein and to those petitioners who passed the tests regular appointments have been given.

There appears to be no case for those who have failed in the test, in their case there is no merits in the case, ^{and application filed} and the cases are disposed of ^{accordingly}.

TRUE COPY

Sd/-

(G.S. Nair)
Vice Chairman

Sd/-

(P.H. Trivedi)
Vice Chairman

Ullas
22/3/90
A. B. SANE
Section Officer
Central Administrative Tribunal
Allahabad Bench.