

*Referendum
(God)
(yes)*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 201 OF 1988.
~~T.A. No.~~

DATE OF DECISION 22-7-1991.

Jitesh Shantilal Ravaiya, Petitioner

Mr. M.D. Rana, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent(s)

Mr. Jayant Patel, Advocate for the Respondent(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*

Jitesh Shantilal Ravaiya,
Aged 23 years, serving as
Part-timer, Sher Baug Exchange,
Under Sub-Divisional Telegraph
Officer, Veraval.

.... Applicant.

(Advocate: Mr. M.D. Rana)

Versus.

1. Union of India,
Ministry of Postal Communication
Represented by the Chairman of
The P & T Board & Ex-Officio
Secretary, Notice to be served
through: The standing advocate.
2. The District Engineer,
Tele Communication,
Junagadh Division, Address:
Datar Road, Junagadh.
3. The Sub-Divisional Telegraph
Officer, Veraval. Respondents.

(Advocate: Mr. Jayant Patel)

J U D G M E N T

O.A.No. 201 OF 1988

Date: 22-7-1991.

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

The applicant employed in the Sher Baug
Telephone Exchange under Sub Divisional Telegraph
Officer, Veraval as a part timer with effect from
1.1.1983 has filed his application under section 19
of the Administrative Tribunals Act, 1985, to challenge
the inaction of the respondents in not making him
full timer though allegedly his junior part timers
have been made full timers by order dated 9.12.1987
produced at Annexure A-1.

2. The material in support of the application
produced consists of the above impugned order and
a representation dated 5.2.1988 made by the applicant
to Telecom District Engineer Junagadh District,

H. M. S.

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Junagadh. In this representation the applicant, besides mentioning the nature of his work, made the request that instead of part time worker he should be appointed a full time worker. He has further stated that he has been working as part timer for the last five years despite which his name does not figure in the list of part time workers made full time. There is no contention in this representation that the applicant was senior to any of those made full time or that he had a prior right which is disregarded. However, it is averred in the original application that the applicant is equally and similarly situated but for the reasons best known to the department is not included in the list of persons now converted into full time. It is further averred in the application that the applicant met respondent No. 3 and respondent No. 2 but does not know why neither ^{he was} made him full time nor his representation favoured with reply. He alleges hostile discrimination. It is also averred that the applicant is doing the same duties as other part timers who have been converted as full timers. The respondents are therefore alleged to be violating Articles 14 & 16 of the Constitution and also provisions of Section 25-F of the Industrial Disputes Act.

3. We have heard the learned counsel for the applicant and perused the record. The learned counsel for the applicant pressed that for the respondents' reply having been filed late is not ^{to be} taken into consideration. As the learned counsel for the applicant pressed that the same should not be taken into consideration, we have ignored the reply.

4. It is evident from the above material facts and record in the applicant's application that the issue boils down to saying that because some other part timers are made

M. H. J.

full timers, make me full timer also. Though the order dated 9.12.87 is silent about the criteria which the respondents followed to convert some part timers to full timers, just because some part timers have been converted into full timers does not ipso facto give a legal claim to the applicant. It is not the case of the applicant that all part timers have been made full timers and he is the only one left out. In this situation, the applicant has to take the plea that he is more eligible than those made fulltimers and, what is very important, substantiate the plea. Just because there are in the same office and the same department some persons working as part timers and some persons working as full timers, it does not by itself amount to breach of Articles 14 and 16 or Section 25-F of the Industrial Disputes Act. For claim of equal pay for equal work, it is necessary for an applicant to compare his work with the work of persons with whom he claims equality by leading required evidence in that regard. Mere claim or assertion not substantiated by evidence is in the impossible position of a boot hanging by its own lace. The learned counsel for the applicant relied on Ahmedabad Bench decision dated 27.2.1991 in O.A. 313 of 1987. That judgment is on the subject of oral termination and has no relevance to the case before us. That Telecom department is an industry is no more res integra. None of the contentions made in the application has been substantiated. The application therefore has no substance. The application is therefore liable to be dismissed. We hereby do so without any order as to costs.

Renni
(R.C.Bhatt)
Judicial Member

H. M. Singh
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(M.M. Singh)
Admn. Member