

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXX~~
NEW DELHI

O.A. No. 229 OF 1988 ~~xxxx~~
~~xxxxxx~~

DATE OF DECISION 18-4-1991.

Al jibhai Jerambhai, Petitioner

Mr. R.J. Oza, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s.

Mr. 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? *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? *Yes*

Aljibhai Jerambhai,
C/o. Rathod Lallubhai Khimjibhai,
Nava Vankarwas,
Botad, Dist: Bhavnagar.

.... Applicant.

(Advocate: Mr. R.J. Oza.)

Versus.

1. Union of India,
(Notice to be served through
The General Manager,
Western Railway,
Churchgate, Bombay-400 001).

2. The Divisional Rly. Manager,
Bhavnagar Division, W.R.,
Bhavnagar Para,
Bhavnagar.

.... Respondents.

(Advocate: Mr. R.M. Vin)

J U D G M E N T
O.A. 229 OF 1988

Date: 18-4-1991.

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

The applicant claims that he was engaged as a casual labour coal loader at Bhavnagar Para, Western Railway, in February 1980 and worked as such upto 8.10.1982. He was not permitted to work from 9.10.82. 67 coal loaders of Bhavnagar Railway Division had, in groups as petitioners, filed four S.C.As in Gujarat High Court which came to be transferred to this Tribunal and were decided by common judgment dated 21.7.1987 by which their termination of service was set aside with reinstatement, full backwages. The judgment further directed preparation of a combined list of casual labour engaged as coal loaders for absorption against regular vacancies in class IV. The S.C.As were filed in 1982 and 1983. The applicant had neither joined in those S.C.As as petitioner nor filed a separate petition. His assertion in this

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original application filed under section 19 of the Administrative Tribunals Act is that he too is entitled to the relief given in the common judgment above and waited for it to flow to him and when it did not he filed the application herein on 6.4.1988. To begin with, this original application contained several prayers for reliefs all of which came to be given up and a new relief as follows inserted and pursued

"Your Lordships be pleased to direct the respondents, their agents and servants to register the claim of the petitioners for the purpose of absorbing them in the Railway service and further be pleased to direct the respondents, their agents and servants to prepare and publish the list of the Casual Labourers of Bhavnagar Division in consonance with the scheme introduced by the Hon'ble Supreme Court in the case of Indrapal Yadav Vs. Union of India and further be pleased to direct the respondents, their agents and servants to absorb the petitioners in service forthwith and grant all consequential benefits to the petitioners."

with addition of a new para in the pleadings leaving us wondering whether pleadings in ^{the} railway casual labour service matter remained, by and large, good to back a new relief replacing all those that appeared when the application was filed.

2. Even for the above relief, the applicant has first to explain limitation as the application has been filed on 4.4.88 though the alleged retrenchment is dated 9.12.82. The pleadings to cross this obstacles are, in the main, two. The first is that the cause of action arises from the respondents not implementing the common judgment above in the applicant's favour.

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There is no legal reason to accept this view. The common judgment was given specifically for relief to the applicants in their peculiar facts in the said TAs which did not includes the applicant herein the facts of whose case are, as to be seen from what follows, peculiar to him. His second submission is that a Divisional Railway Manager, Mr. Nanavati, had orally promised him that the benefits of the said common judgment would be made to cover him also. Suffice it to say about this explanation that even if the said Mr. Nanavati so promised, that may have the character of a private assurance and not for legal consequences to flow to the applicant from the common judgment. However, the respondents have their own version in their reply. **Their** say is that the applicant had abandoned work with effect from 26.7.81 which version, apart from not contradicted by rejoinder, has strong circumstantial corroboration. The TAs above referred were by coal loaders who were also, like the applicant herein, engaged in February, 1980 and had filed their S.C.As when retrenched or put on notice to question it. As the applicant herein did not join in any of the four S.C.As as petitioner nor did he file S.C.A. by himself, this circumstance provides support to the reason to believe that he was not one of those who were retrenched or put on notice as he had abandoned the work earlier as alleged by the respondents. The application throws no light on why the applicant though claiming to have been retrenched did not join his ^{many} / colleagues in the four SCAs as petitioners or file his seperately to question the retrenchment. This conclusion from the circumstantial evidence also supports the part of the allegation in

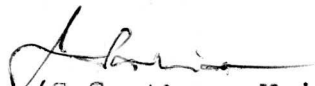
the respondents' reply that having come to know of the favourable common judgment in the TAS above referred, the applicant herein concocted a plausible story including by putting words in the mouth of Mr. Nanavaty, long not on duty at the place, in his attempt to somehow prepare a seemingly plausible legal case to enter this Tribunal simultaneously circumventing the bar of limitation. Though the application was admitted, that does not preclude us from looking into the basic qualifications to invoke the jurisdiction of this Tribunal. We are clear in our mind that the cause of action, even according to the applicant's story, arose on 9.10.1982 when the applicant was allegedly retrenched (though as shown above, had abandoned work before that) and not on 21.7.87 when this Tribunal judgment in the four TAS was pronounced. No evidence has been produced by the applicant to support his claim that he worked upto 8.10.82. May be an accident that 9.10.1982 is the date SCA 4275 was filed in Gujarat High Court by a group of above referred Coal loaders. In any case, the applicant has produced no evidence that he was engaged upto 8.10.82 and has not controverted by rejoinder or otherwise the respondents' reply that he had abandoned work on 26.7.1981.

3. When evidence and reasonable inference from it does not support the pleadings, the latter and relief on the basis of the latter deserve to be dismissed as facade the reality of which may be wholly or substantially different.

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4. The application thus deserves to be dismissed. We hereby do so. However, we are not ordering costs against the applicant in consideration of his socio-economic status discernible from some averments.


(S. Santhana Krishnan)
Judicial Member

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(M. M. Singh)
Administrative Member