

(3)

*Not allocative to (Jud)
Resumed by*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXX XXXX XXXX~~

O.A. No. 303 OF 1988 ~~XXX~~
~~XXXXXX~~

DATE OF DECISION 18-4-1991

Prabhakar Haribhai Saitwal, Petitioner

Mr. J.J. Yajnik, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents.

Mr. Jayant Patel, 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? *No*
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*

Prabhakar Haribhai Saitwal,
residing at & Post Girgadhda,
Taluka Una, Dist: Junagadh.

..... Applicant.

(Advocate: Mr.J.J.Yajnik)

Versus.

1. Union of India
(to be served through the
General Manager, Telecom,
Ahmedabad), Ashram Road,
Ahmedabad.

2. S.D.O.T.,
Veraval Sub-Division,
Veraval.

3. The Director of Telecom
Mohanbhai Hall, Near Dharm
Cinema, Rajkot 360 001.

..... Respondents.

(Advocate: Mr. Jayant Patel)

J U D G M E N T

O.A.No.303 OF 1988

Date: 18-4-1991.

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

The Veraval Telegraph Subdivision started engaging the applicant from 20.10.1977 as casual Mazdoor. The arrangement continued with long and short breaks till October 1987 when, according to the allegation of the applicant, he was asked to sign an undertaking to the effect that he will not claim any rights and will forego all accrued rights. As he did not agree to so sign, the respondents stopped engaging him though the respondents continued to engage similarly situated casual Mazdoors thus indulging in discrimination prohibited under Articles 14 and 16. Arrears of his salary and wages on account of Supreme Court judgment in Casual Labour V/s. P & T Department are also not paid to him. He therefore,

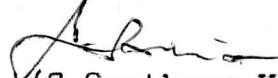
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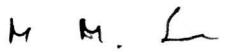
in this application filed under section 19 of the Administrative Tribunals Act, 1985, seeks the relief of direction to the respondents to allow him to discharge his duties and payment to him of the arrears on account of the judgment above.

2. The reply of the respondents denies the allegations. On the contrary, it is alleged that the applicant came for engagement as and when he liked which resulted in long and short gaps in his engagement, a gap as long as three years and six months. In October 1987, the applicant came to work for 16 days only and abandoned work on 21.10.87.

3. The dates of representations of the applicant are 10.2.88, 25.2.88 and 16.4.88 as seen from their copies annexed. Acknowledgements due and postal certificates are also of 1988. With no allegation made by the applicant against his nonengagement, for an example, from April 1983 to September 1986, for three years and six months, the respondent's counter-allegation that the applicant ^{used to} disappear from work at his sweet will and suoface equally at his sweet will has substance. This and other gaps are discernible from the certificate of his engagement the applicant has annexed and from the account of engagement the respondents have annexed. There is thus truth in the respondent's allegation that the applicant suppressed facts in his application and invented the allegation of having been asked to sign an undertaking on lines earlier stated and that his not signing it resulted in his disengagement.

4. Regarding the Supreme Court judgment, the respondents aver that arrears, if any, of wages arising because of the judgment, will be paid to the applicant.
5. The applicant filed no rejoinder nor did he or his counsel appear at the final hearing.
6. With evidence of abandonment time and again and lastly in October 1987 which are not contested, the application has no merits and is therefore dismissed without any orders as to costs. However, the respondents should pay any arrears of wages to the applicant arising because of the judgment of the Supreme Court and if not so far paid.


(S. Santhana Krishnan)
Judicial Member


(M.M. Singh)
Administrative Member.