

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
NEW DELHI

O.A. No.
XTRA. No.

315 OF

1988

DATE OF DECISION 20.08.1991

Mr. Raghu Karman,

Petitioner

Mr. B. B. Gogia

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. B. R. Kyada

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*

Mr. Raghu Karman,
Street No.14,
Near Bachu Dalal,
Hokoro-ne-Kathe,
Popatpara,
RAJKOT.

... Applicant.

(Advocate : Mr. B.B.Gogia)

Versus

Union of India,
Through : General Manager,
Western Railway,
Churchgate,
BOMBAY.

... Respondents.

(Advocate : Mr. B.R.Kyada)

O.A. NO. 315 OF 1988.

JUDGMENT

Date: 20.08.1991.

Per : Hon'ble Mr.S.Santhana Krishnan : Judicial Member

The applicant has come forward with this application under Section 19 of the Administrative Tribunals Act, 1985, claiming the following relief :-

"The respondents may please be directed to act upon the scheme framed by the Railway Board on the basis of the Judgment of the Supreme Court of India in Inderpal Yadav's case in respect of the case of the applicant, insert/interpolate his name in the seniority list already prepared/to be prepared and to absorb him in the employment in accordance with the said decision of the honourable Supreme Court of India and the scheme framed by the Railway Board with all consequential benefits."



2. The applicant's grievance is that he had worked under the respondents for over 682 days as a casual labourer and as such the respondents should insert his name in the seniority list if already prepared or to be prepared as per the Judgment of the Supreme Court of India in Indrapal Yadav's case.

3. The respondents in their reply contend that the application is barred by limitation and that the applicant never worked continuously under the respondents for 682 days as claimed by him. They admit that the name of the applicant is incorporated in the seniority list of Bhavnagar Division at Sl.No.1056 as per the direction of Railway Board with reference to the Supreme Court Judgment. As the application is barred by limitation, the applicant can not claim any relief in this application.

4. The applicant filed a rejoinder wherein he reiterates what he has stated in the Original Application.

5. Counsel appearing for the applicant filed written arguments and heard the counsel for respondents. Records are perused.

6. The applicant in para-3 of the application claims that the application is filed mainly to reinstate the applicant as per the scheme formulated by the Railway Board as per the directions given by the Hon'ble Supreme Court. On the other hand in the relief portion he is not claiming reinstatement but only wanted that his name be included in the seniority list. In the written submissions also it is submitted that the applicant is not claiming any relief against the termination in 1981 or for not allowing him to resume his duties at Porbandar after a month of his absence, due to sickness.



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7. Though the applicant claimed in the application that he was originally working as a casual labourer in VOCP Project and that the respondents terminated his services on 21.3.1981 without complying with the provisions of Section 25 (F) of the Industrial Disputes Act, as the applicant is not claiming any reinstatement, there is no necessity to consider this contention. Again the applicant states in his application that he joined at Porbandar on 2.12.1983, as per the communication dated 14.11.1983 and that after he had worked for 10 days and thereafter as he fell sick and hence could not resume duty. Though he states, that he was not permitted to do so, he is not claiming any relief on this aspect also.

8. The applicant contends that he has completed 682 days of continuous service. The applicant placed reliance on Annexure-A/1, the xerox copies of the service card. The entries only show that the applicant worked as a casual labourer between 2.5.1979 to 20.3.1981, and then on 2.12.1983, but it nowhere states that the applicant worked continuously between these periods without any gap. Annexure-A/2, is a notice sent by the applicant to the Railways in 1987.

9. The counsel appearing for the applicant placed reliance on a decision of the Supreme Court (Viz)..., Indrapal Yadav's case. In this case the Supreme Court only directed that the Railways should prepare a scheme in respect of casual labourers who had completed 360 days of continuous service and who are working with the Railways as on 1.1.1981. If the applicant has got any grievance that the Railways failed to comply with the directions of the Supreme Court, his remedy is elsewhere and not before this Tribunal.



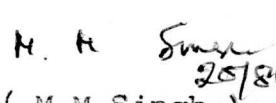
10. The learned counsel appearing for the applicant failed to bring to our notice any provisions of the Central Administrative Tribunal's Act or any authority whereby this Tribunal has got power to enforce the Judgment of the Supreme Court.

11. Again he placed reliance on the Judgment reported in 1990 (1) All India Service Law Journal Page, 524, (Manohar-lal Ramchandra and Ors. Vs. Union of India and Ors.). The applicants in this case were retrenched on the ground that they were rendered surplus. The Tribunal pointed out that the retrenchment violates Section 25 (N) of the Industrial Disputes Act and hence it is liable to be quashed. As the applicants challenged the validity of the seniority list prepared, the Railways were directed to prepare combined seniority list to decide persons to be retrenched. We are unable to understand how this decision helps the applicants.

12. Further the applicant in the relief portion only claims that his name be included in the seniority list and it is seen from the reply of the respondents that the name of the applicant is already in the seniority list of the Bhavnagar Division. Hence, the Court can not give any further direction to the respondents. As the applicant is not claiming reinstatement or questions the termination or retrenchment, the applicant is not entitled to claim any relief in this application.

13. In view of the above discussion the application is liable to be dismissed and accordingly the same is dismissed. We make no orders as to costs.


S. Santhana Krishnan)
Judicial Member


M. M. Singh
25/8/91
(M. M. Singh)
Administrative Member