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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

The Terminal is sad
O.A. No. 28 of 1988

DATE OF DECISION 22-07-1991

Shri Herba Prabhat **Petitioner**

Shri B.B. Gogia **Advocate for the Petitioner(s)**

Versus

Union of India & Ors. **Respondent**

Mr. M.R. Rawal for Mr. P.M. Rawal **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*

(6)

Shri Herba Prabhat,
Aji Vasahat,
Khodiyar Nagar,
Street No. 24,
RAJKOT.

: Applicant

Versus

1. Union of India, Through
Secretary,
Telecommunications,
NEW DELHI.

2. Divisional Engineer,
Telephones,
Nr. Girnar Cinema,
RAJKOT.

: Respondents.

J U D G E M E N T

Date : 22-07-1991

O.A./28/88

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

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant impugns the oral termination order dated 1.1.1988, and requires continuous employment with all benefits and also regularisation of his services as per the judgement of the Supreme Court.

In this application the applicant claims that he was originally working under Asstt. Engineer Cable Construction, Rajkot from 1.12.1985, till he was transferred under A.E.Phones, External (East), Rajkot in the month of October, 1987. He was working under the A.E. Phones, External (East), Rajkot till 31.12.1987 and he was retrenched as per the oral order dated 1.1.1988. The applicant worked under the respondents for 681 days and as such his services cannot be terminated without complying with the provisions of Section 25 (F) of the Industrial Disputes Act. The applicant points out that he is a workman and the respondents Telephones is



: 3 :

an 'Industry' and as such he is entitled to claim the benefit of the Industrial Disputes Act. The respondents also failed to regularise his services in accordance with the judgment of the Supreme Court of India and hence he requires reinstatement with all benefits and also regularisation.

In their reply the respondents claim that the applicant will have to establish that he had worked continuously for 681 days. It is denied that he was transferred to A.E. Phones, External (East) Rajkot. He was working in A.E. Cable (C), Rajkot and left on his own accord. It is denied that the applicant had been retrenched from his services by A.E. Phones, Rajkot. He did not turn up for duty on 1.1.1988. Hence Section 25-F has no application in the matter in question. As the applicant left the job on his own accord there is no opportunity for the respondents to offer the notice or compensation.

Heard both the counsels appearing for the applicant and the respondents. Records were perused.

The applicant claims that he was working as casual labourer originally under A.E. Cable (C) Rajkot from 1.12.1985. He has produced Annexure A/1, to prove that he was working under A.E. Cable (C) Rajkot from 1.12.1985 to 31.12.1986. Annexure A/2, and A/3, are filed to establish that the applicant worked under the same division up to September, 1987. Annexure A/4, is produced by the applicant to establish that he thereafter worked under A.E. Phones, (East), Rajkot, from October, 1987 to December, 1987. The respondents in their reply claimed that the applicant was working only under A.E. Cable (C) Rajkot and he was not transferred to A.E. Phones, Annexure A/4, proves that the contention of the respondents is not true. The only contention of the respondents in their reply is that the applicant while serving under A.E. Cable (C), Rajkot, did not turn up for duty on 1.1.1988. The respondents failed to produce any record to show that the applicant never worked under A.E.



: 4 :

Phones, or that he was absent from 1.1.1988. It is significant to note that the respondents did not issue any notice to the applicant after 1.1.1988, requiring him to report for duty. The respondents contend that the provisions of Section 25(F) of the Industrial Disputes Act, is not applicable to the applicant, as he left on his own accord.

The respondents in their written submissions raised a new plea (viz), that the applicant worked under A.E. Phones, Rajkot only for 76 days from October 1987 to December 1987. They further contend that the Asstt. Engineer Cable Construction, and A.E. Phones, Rajkot are two different divisions. This is not their case, in their original reply. The applicant specifically point out in his application that both these offices are under the IIInd respondent. This is not disputed by the respondents in their reply. In the original reply the respondents have not stated that the A.E. Phones, should be added as a party. Hence there is not force in their objection at the time of the arguments. It is admitted case of the respondents that they did not issue any notice of termination. The respondents failed to establish that the applicant left on his own accord.

The applicant by producing Annexure A/1 to A/4, proved that he was working under the respondents continuously from 1.12.1985 to 31.12.1987. It is seen that the respondents did not allow him to work from 1.1.1988 onwards. The respondents admittedly have not issued any notice terminating the services of the applicant. As the applicant has established that he has worked under the respondents continuously for over two years, the respondents cannot prevent him from joining the work from 1.1.1988. The action of the respondents clearly violates the principles of the natural justice and also offends the provisions of Article 14 of the Constitution of India.

As the applicant has established that the respondents



terminated his services violating the principles of natural justice, he is entitled to approach this Tribunal for the necessary relief. Though the applicant requires this Court to direct the respondents to enforce the judgment of the Supreme Court, the learned counsel appearing for the applicant failed to bring to our notice any provisions of law or authority by which this Court has got such power. If the applicant has got any grievance on this aspect his remedy is elsewhere and not before this Tribunal.

As the applicant has established that the oral order of termination is illegal and void he is entitled to a declaration to this effect. We feel that the interest of justice will be met if the respondents are directed to reinstate the applicant with continuity of his service, with back wages and other benefits as claimed by him.

In view of the above discussion the applicant is entitled to a declaration that the oral order of termination dated 1.1.1988 is illegal and void and accordingly we find that the oral order of termination dated 1.1.1988 is null and void and the applicant is entitled to claim reinstatement from 1.1.1988, onwards with continuity of services, and back wages and other attended benefits. The parties are directed to bear their own costs.


(S. Santhana Krishnan)
Judicial Member

M. M. Singh
27/1/91.
(M. M. Singh)
Administrative Member