

Re Research

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL
AHMEDABAD BENCH

(B)

O.A. No. 491/1988.

~~Exhibit No.~~

DATE OF DECISION 31.7.1992.

Vishvanathan Munian, Petitioner

Mr. Y.V. Shah, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. N.S. Shevde, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan, Vice Chairman.

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Vishvanathan Munian,
Chief Signal Inspector(C),
Western Railway,
Ahmedabad-2.

..... Applicant.

(Advocate: Mr. Y.V.Shah)

Versus.

1. Union of India,
through the General Manager,
Western Railway,
Churchgate, Bombay.

2. Dy. Chief Signal Telegraphic
Engineer(C),
Opp. Railway Station,
Ahmedabad - 2.

3. Chief Signal Inspector(C),
Western Railway,
Opp. Railway Station,
Ahmedabad - 2.

..... Respondents.

(Advocate: Mr. N.S.Shevde)

ORAL ORDER

O.A.No. 491/1988

Date: 31.7.1992.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. Y.V.Shah, learned counsel for the applicant and Mr. N.S.Shevde, learned counsel for the respondents.

2. This application under section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant against his oral retrenchment dated 29th May, 1987 seeking the relief that the respondents be directed to reinstate him in service with all consequential benefits. It is alleged by him that he was initially recruited as a casual labourer with effect from 21st October, 1980 and continued upto 10th January, 1981 and thereafter reengaged with effect from 11th March,

(7)

1981 and continued upto 20th May, 1981 and he was orally retrenched from service with effect from 21st May, 1981 but thereafter he was reengaged from 22nd June, 1984 ~~was~~ and continued upto 22nd December, 1986 under the respondent No.3, Chief Signal Inspector(C). It is alleged that he ~~had~~ gone to Gandhidham on 23rd December, 1986 due to serious sickness of his sister, where he ~~suffered~~ suffered hypo-tititis and remained under treatment of a private doctor upto 28th May, 1987. It is alleged that though he produced sickness-cum-fitness certificate before the respondents, respondent No.3 did not allow him to resume duty on 29th May, 1987 and retrenched him orally. It is alleged by him that ~~has~~ he has been given temporary status and passed medical examination B-I catagory. According to the applicant, the oral termination is in violation of provision of Section 25F and 25H etc. of Industrial Disputes Act.

3. The respondents have filed reply resisting the application ~~denying~~ that the applicant had produced sickness-cum-fitness certificate as alleged by him. It is denied that the provisions of Section 25F of I.D. Act are applicable to the applicant. It is denied by the respondents that when the applicant approached the respondent No.3 he was not allowed to resume duty. The respondents have denied that the applicant had been orally terminated, as alleged.

4. In the instant case, the respondents have not produced any evidence to show that the applicant was given any notice of termination

The respondents' contention that the provisions of 25F of I.D. Act is not applicable to the present case can not be accepted, as admittedly the applicant was a casual labourer in the Railway Department. The applicant has stated that he has obtained temporary status, therefore, even if the provision of 25F of I.D. Act is not applicable to the applicant, the respondents could not have terminated the service of the applicant without the notice as required under the provision of Indian Railway Establishment Manual. Therefore, the termination in any case was bad.

5. The learned counsel for the applicant submitted that the applicant be reinstated in service. In the instant case as observed above, the respondents have terminated his services without giving any notice, it would be just and proper to quash the order of termination and to reinstate him without giving any backwages. Hence the following order :

ORDER

The application is partly allowed. The order of termination passed by the respondent No.3 is quashed and set aside and the respondent No. 2 is directed to reinstate the applicant within one month from the

date of the receipt of this order with continuity of service but the applicant would not be entitled to any backwages. If necessary respondents may require the applicant's fitness certificate which the applicant shall produce from the railway doctor. No orders as to cost.

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(R.C.Bhatt)
Member (J)

Nave
31.7.82

(N.V.Krishnan)
Vice Chairman

vtc.