

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
NEW W.D.E.XXII

(14)

O.A. No.
~~XXXXX No.~~

613 of 1988

DATE OF DECISION

22.7.1991

Mr. Mukeshkumar B. Sharma

Petitioner

Mr. K.K. Shah

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. N.S. Shevde

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh

: Administrative Member

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?

(15)

Mr. Mukeshkumar B. Sharma,
Qtr. No. 906/F D-Site,
Freelandgunj,
Dahod,
DIST. PANCHMAHAL.

: Applicant

(Advocate: Mr. K.K. Shah, present)

VS.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate,
BOMBAY -400 001.

2. Chief Works Engineer,
Head Office,
Western Railway,
Churchgate,
BOMBAY.

3. Dy. Chief Mechanical Engineer,
Western Railway,
Dahod,
DIST. PANCHMAHAL.

4. Production Engineer,
Western Railway,
DAHOD.

5. Shop Keeper,
Diesel Sector,
Western Railway,
DAHOD,
DIST. PANCHMAHALS.

: Respondents

(Advocate : Mr. N.S. Shevde, present)

CORAM : Hon'ble Mr. M.M. Singh

: Admn. Member

Hon'ble Mr. R.C. Bhatt

: Judicial Member

O R A L - J U D G E M E N T

O.A. No. 613 of 1988

Date : 22.7.1991.

Per : Hon'ble Mr. R.C. Bhatt

: Judicial Member

The applicant, who was working under the respondents No. 2 to 5 as Trainee Turner, at the time when this application was filed by him, has prayed that, the respondents be directed to take test of the applicant as per order dated 14.6.1988, produced at annexure A-8, passed by respondents No. 3 and has

further prayed to quash and set aside the proposed action of the respondents in terminating the services of the applicant on the ground that the applicant was detained in police custody for more than 48 hours and had not informed about the same to the Railway Administration.

3. There are certain undisputable facts in this case. The applicant was appointed as trainee against 25% direct recruitment quota vide respondent No.2 office order dated 13. 13.6.1985, that the duration of training was three years, and the applicant's Ticket No. was 69176. It is not in dispute that the Trainees' are paid stipend during the training period. Training was started on 6.12.1985. Police Inspector Dahod (Town) vide his letter dated 12.4.1988 advised the respondents No.3 that investigation was made against a complaint registered under F.I.R. 39/88 under Section 380 and 114 of I.P.C. for theft. It is also not in dispute that during the course of investigation, the applicant was arrested and kept in police station after obtaining remand for 5 days from 20.3.1988 to 25.3.1988. from the court.

4. The respondents have contended in their reply that during the remand of the applicant, the stolen T.V. was recovered from him. It is also contended that as per the deed of indemnity executed by a trainee, he can be discharged for any misconduct or offence. The respondents have filed additional reply, in which it is contended that the apprenticeship of the applicant was terminated with effect from 31.12.1988. It is not in dispute that the Criminal Case lodged against the applicant is pending before the Criminal Court, and according to the learned advocate for the applicant, the applicant is not till today aware of the result of that Criminal Case.

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5. It is also not in dispute that, though initially the applicant was suspended, however, after his representation, his suspension order was revoked vide office letter dated 6.6. 1988, with effect from 7.6.1988 and it is also not in dispute that the applicant's training was completed on 25.7.1988.

6. Now the question is ~~not~~ as to what is the position of the present applicant who was terminated from 31.12.1988, ^{and} the question is whether he can compel the respondents to take trade test. ¹ The answer would be that as his apprenticeship was already terminated with effect from 31.12.1988 and ~~until~~ till the criminal case against him is not completed, he ~~cannot~~ compel the respondents to take trade test. Learned advocate for the applicant has not ~~even~~ shown us any Rule that even after the apprenticeship of the trainee is terminated, the respondents are bound to trade test the said applicant. We may observe at this stage that the matter would have been ^{different} ~~date~~, if the applicant was still in service today, and if we had to consider the question as to whether the respondents were bound to trade test him. We do not express our opinion ^{to decide} to that point, as it is not required at present having regard to the admitted fact that the apprenticeship of the applicant is terminated with effect from 31.12.1988. In our opinion, therefore, the applicant at present cannot compel the respondents to trade test him.

7. The applicant, in view of the fact that ~~he~~ is not in service at present, cannot get any relief as prayed for. The question of quashing the proposed action of terminating the services of the applicant does not arise, because no interim order was passed at the initial stage, and subsequently the applicant's services have been terminated on 31.12.1988 ^{and} ~~after~~ ^{and sought}. Therefore there was no amendment in the prayer clause in the