

Admission 102

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
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O.A. No. 672 OF 1988 498
xExNox

DATE OF DECISION 7-6-1991

Bindeswari Naginprasad & Ors. Petitioners

Mr. R.V. Sampat, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. M.R. Raval for Mr. P.M. Raval, 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*

1. Bindeswari Naginprasad, aged 23 years, serving as casual labourer under S.D.O.T. Probandar.
2. Vakilsingh Ramjisinh, serving as casual labourer, aged adult, S.D.O.T. Porbandar.
3. Ram Ayodhyaprasad Radhaprasad, aged 26 years serving as casual labourer, S.D.O.T. Porbandar.
4. Rajkeshwarsing Ramshakal Yadav, aged 24 years, serving as casual labourer at present serving at Khirasara under S.D.O.T. Porbandar.
5. Sudarshansingh Lakhji Yadav, Aged 24 years, serving as casual labourer, S.D.O.T., Porbandar.
6. Sudarshan Bhagat Ramishwar Bhagat, aged 25 years, S.D.O.T. Porbandar.
7. Ramchandra Prasad Singh Dasiprasad Singh, serving as casual labourer, S.D.O.T. Porbandar, aged about 22 years.
8. Ashok Amrit Mahto, serving at S.D.O.T. Porbandar as casual labourer
9. Mithileshkumar Yadav Ganesh Roy, serving as casual labourer aged 22 years, S.D.O.T. Porbandar.
10. Badelal Ramagya Yadav aged 22 years, serving as casual labourer, S.D.O.T. Porbandar.
11. Subedar Prasad Shivnath Prasad, aged 22 years, serving as casual labourer under S.D.O.T. Porbandar.
12. Sureshchandra Jaguprasad Verma, aged 22 years, serving as casual labourer, under S.D.O.T. Porbandar.
13. Kapildeosing Durjansingh, aged 27 years, serving as casual labourer, S.D.O.P., Porbandar.

.... Applicants.

Versus.

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1. Union of India,
Through The Under Secretary
to the Government of India,
Ministry of Tele Communication
Parliament Street, New Delhi.
2. The General Manager,
Tele Communication,
Gujarat Circle,
Ahmedabad.
3. The Telephone District Engineer,
Genda Agad Road,
Junagadh. Respondents.

ORAL ORDER

O.A. 672/88

Date : 7-6-1991.

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

1. The thirteen applicants of this original application under section 19 of the Administrative Tribunals Act, 1985, all casual labour employees of the Telecommunication Department, Gujarat Circle, have, under the head 'Particulars of the order against which application is made', stated in the application that their case is covered by the judgment of the Supreme Court in Writ Petition No. 373/1986 and 302/1986 dated 27.10.1987 reported in AIR 1987 SC 2342 which judgments directed the respondents to prepare a scheme for absorption of the casual labourers who have completed more than one year of continuous service in the P & T Department within eight months of the judgments which the respondents of the application herein have failed to do so and Junagadh division of the Telecommunication Department of Gujarat has not prepared any such scheme resulting in non-regularisation of the applicants despite their continuous service of five to eight years in the ^{My Application} department. ~~Petition~~ therefore say that they have moved this Tribunal by the application before us to order absorption of the applicants on regular pay scale in terms of the directions of the Supreme Court. It is

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averred by them that the application has been filed after the expiry of the time stipulated by the Supreme Court for implementation of the Court's orders and is within the period of limitation. By way of reliefs is sought a declaration to the effect that the respondents are liable to absorb the petitioners in order of their respective seniority with retrospective effect on a regular post on regular payscale as regular labourers and to release all the consequential benefits and to carry out and implement the judgment above of the Supreme Court forthwith etc.

2. The respondents' reply is to the effect that the application suffers from delay and latches and acquaintances and is filed beyond the period of limitation, that the applicants were called through Sub-Division for the post of regular Mazdoors vide respondents' office order dated 11.2.83 when a selection was made in accordance with the conditions stated in the order dated 11.2.83, that applicant No.1 had not applied pursuant to order dated 11.2.83 and therefore the question of his selection does not arise. It is further averred by the respondents that all the applicants are in the list for selection as regular mazdoors in the Department the number of whom is very large and that they will be regularised as per their seniority subject to the availability of posts and that the applicants will be continued as casual labourers till that happens and consequently the applicants have no cause of action and therefore no reason to prefer this application. According to the respondents the Supreme Court judgment relied upon by the applicants had no application to their case and that regularisation shall take place in accordance with the government policy according to which will be considered all the cases including of the

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applicants. It is further averred that the applicants are not entitled to regularisation and absorption as a matter of right.

3. Heard Mr. M.R. Raval, learned counsel for the respondents. Mr. R.V. Sampat, learned counsel for the applicant not present. Mr. R.V. Sampat was not present on 12.4.1991 also when the matter was called.

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4. It is evident from the above contents of the applicants that they want this Tribunal to direct the implementation of the orders of the Supreme Court as far as they are concerned. This, in substance and in its effect, amounts to invoking the authority of this Tribunal to direct the respondents to implement orders of the Supreme Court in a judgment. It is ~~tribe~~ to say that this Tribunal can exercise only such powers, as are vested in it by the Administrative Tribunals Act, 1985. Question therefore is whether this Tribunal is vested with such powers ~~as it~~.

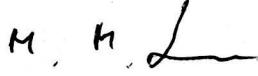
5. In the provisions of the Administrative Tribunals Act, 1985, section 27 of the Act is the only provision on execution of orders. This section 27 directs how the orders of the Tribunal finally disposing of an application or an appeal shall be executed in case not questioned in appeal. Failure to comply with the orders of the Tribunal ~~express~~ ^{expressly} the concerned to action under section 17 of the Act, which action the Tribunal has powers to initiate. No such power vests in the Tribunal to direct the respondents to implement the order of the Supreme Court. In view of this, relief based on contentions above of the applicants cannot be granted.

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6. In view of the above, we do not consider it necessary to make any observations on the stand of the respondents with regard to limitation and cause of action.

7. In the light of the above, the application is liable to be dismissed. We hereby do so. There are no orders as to costs.


(S. Santhana Krishnan)
Judicial Member


(M.M. Singh)
Admn. Member

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