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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

No
Termination

O.A. No. 129 of 1989
Case No.

DATE OF DECISION 08.02.1993.

Shri Poptaji Ramtuji Thakore Petitioner

Shri P.H.Pathak Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. R.C.Bhatt : Member (J)

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 ? ✓

Poptaji Ramtuji Thakore,
Resident of Moti Siholi,
District : Gandhinagar.
(Advocate : Mr.P.H.Pathak)

.....applicant

versus

1. Union of India,
Notice to be served
through
The Post Master General,
Navrangpura,
Ahmedabad.
2. The Superintendent of Post Offices,
Gandhinagar Division,
Gandhinagar.
3. The Sub-Post Master,CRPF,
C.R.P.F.Campus,
Gandhinagar.

...respondents

(Advocate : Mr.Akil Kureshi)

O R A L O R D E R

O.A.129/89

Date : 08.2.93.

Per : Hon'ble Mr.N.V.Krishnan

Vice Chairman

Shri P.H.Pathak,advocate for the applicant.

Shri Akil Kureshi,advocate for the respondents.

The applicant was an Extra Departmental Agent under the control of 3rd respondent as a Postman, CRPF, Campus, Gandhinagar from 1.3.1986. The impugned Annexure-A *u dated 18.2.89* order was passed by the respondent no.3, stating that the applicant's services have been terminated because one Shri Solanki Devaji Sywaji has been regularly selected for that post.

2. Aggrieved by this order, the applicant has filed this application seeking the following reliefs :-

A. The Hon'ble Tribunal be pleased to hold that the impugned order at Annexure-A terminating the services of the applicant, is ~~x~~ illegal, invalid and inoperative in law and be pleased to ~~xxx~~ quash and set aside and direct the respondents to reinstate the applicant on his original post with continuity of services and with full back wages.

B. Be pleased to direct the respondents to regularise the services of the applicant from the initial date of appointment and grant all the benefits of Class-IV Employees of the Department.

C. Be pleased to hold that the department has adopted unfair labour practice by rotating the applicant as Extra Departmental Agent for more than 3 years.

D. Any other relief to which the Hon'ble Tribunal
deems fit and proper in the interest of justice
together with costs and interest.

3. The respondents have filed a reply denying any
relief to the applicant.

4. We have perused the records and heard the learned
counsel for the parties.

5. When the case came up for final hearing, the learned
counsel for the applicant pressed the application only in so far
as it concerns the challenge to the Annexure-A order and he
requested that the prayer in B regarding the regularization be
kept open.

6. It would appear from the reply filed by the
respondents, that the applicant was appointed only on a
stop gap arrangement and it was not a regular appointment as
neither any advertisement was issued nor names were called from
the Employment Exchange. Subsequently, steps were taken for
making a regular appointment and after following the proper
procedure, Devaji Suwaji Solanki ~~the 3rd respondent was~~
~~the third respondent~~
appointed at Palanpur, on 18.2.1989 and ~~he~~ was therefore,
directed to discharge the service of the applicant. In
pursuance of this, the impugned order has been issued.
The respondents therefore, claimed that the applicant is not
entitled to any relief.

7. The respondents do not have a case that they had followed the procedure laid down in Section-25 F of the Industrial Disputes Act. As a matter of fact, it is claimed that the respondents department~~s~~ is not an industry and the applicant is not a workman.

8. We have heard the parties. It is not necessary to spend our time to consider whether the Department of Posts is an industry, because such a decision has already been rendered many times in the past. Admittedly, the applicant ~~did not~~ ^u work continuously after his initial ad-hoc appointment. He has also produced the Annexure-A/1, in support of this. He has rendered more than 240 days of continuous service prior to his termination ^{by} ~~of~~ ^u A the Annexure-~~A/1~~ order. In the circumstances, he is entitled to the protection of Section-25 F of the Industrial Disputes Act.

9. It is also clear that the procedure laid down under the Section-25 F has not been followed. Therefore, the order of termination should be ~~declared~~ ^u declared void. ~~therefore~~, and the applicant is entitled to relief on that basis.

10. In the circumstances, we dispose of this application by quashing the Annexure-~~A/1~~ ^A ^u and ~~regarding~~ ^u ^{impugned} the application should be deemed to be in continuous service as if he had not been terminated by the Annexure-A order and he is entitled to the consequential benefits of back wages after adjustment of any gainful employment before this date. He is also entitled to wages hereafter according to law.

The respondents are directed to make payment of the wages ^{within} from the period of two months from the date of receipt of this order. We make it clear that, we have left open issue of regularisation and have not decided that issue in this case. The application is disposed of as above.

Resd

(R.C.Bhatt)
Member (J)

Am
8.2.93

(N.V.Krishnan)
Vice Chairman

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