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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

NO
Implementation
of award

O.A. No. 132 OF 1990
~~XXXXXX~~

DATE OF DECISION 24th Feb.1993.

Shri Kulwant Singh Petitioner

Shri Akil Kureshi Advocate for the Petitioner(s)

Versus

Ashok Yashwant Khandekar, Respondent

Shri B.R.Kyada. Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. V.Radhakrishnan : Member (A)

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 ? ✗

Shri Kulwant Singh
Assistant
Engineer (Telephones)
Railway pura-II Exchange,
Ahmedabad Telephones,
Ahmedabad - 380 002.

...Applicants.

(Advocate : Mr.Akil Kureshi)

Versus

Ashok Yashvant Khandekar
15, Chandar Nagar,
Om Prakash- Richali,
~~Dist~~ Sardarnagar,
AHMEDABAD.

...Respondent.

(Advocate : Mr.B.R.Kyada)

ORAL JUDGMENT

O.A. NO. 132 OF 1990.

Dated : 24.2.1993.

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

Mr.Akil Kureshi and Mr.B.R.Kyada, learned advocates
for the applicant and the respondents present.

1. This application is filed by the Assistant
Engineer (Telephone), Railway pura Exchange, challenging
the award passed by the Industrial Tribunal (Central)
Ahmedabad in Reference No. ITC - 2/86 dated 30.12.1989.
The applicant seeks relief that the said award be quashed
and set aside and the reference be dismissed.

2. The respondents have filed reply contending that
there is no illegality committed by the Industrial Tribunal
in allowing the reference and hence the application should
be dismissed.

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3. We have heard learned advocates. This Tribunal while exercising powers under Article - 227 of the Constitution of India, does not sit in appeal against the award given by the Industrial Tribunal but has a supervisory jurisdiction and if the Industrial Tribunal has committed any error of law or any error in following the procedure which has resulted in miscarriage of justice than only this Tribunal will interfere with the award given by the Industrial Tribunal. Learned advocate for the applicant has submitted that the Tribunal ought to have held that the applicant department was not 'an industry' and respondent not 'a workman', as defined under the provisions of Industrial Disputes Act. The Industrial Tribunal has held that there is violation of section 25 -F of the Industrial Disputes Act in this case made by applicant. It is now well settled that the Telephone department is an industry and the person working in it a workman as defined under the Industrial Disputes Act. Moreover, having examined in details, the reasoning given in the award at Annexure-A by the learned Judge of the Industrial Tribunal, We find that after considering and appreciating evidence on record the learned Judge of the Industrial Tribunal has come to the conclusion that the respondent had worked for 240 days in a year and has rightly come to the conclusion that the applicant has not followed the mandatory provision of Section-25-F of the Industrial Disputes, Act, and has

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rightly held that the workman cannot be removed the way in which he has been removed from service.

4. Reading para⁸ and 9 of the award of the Tribunal, we find that the Tribunal has rightly rejected the contentions of the applicant department, that it was not necessary to hold any inquiry and that the applicant could be removed at any time and there was no breach of Section-25-F of Industrial Disputes Act. The department has ~~not complied~~ ^{to comply} ~~xxxx~~ with the provision of Section-25F of the ID Act, if the concerned workman has satisfied the requirement of Section-25-B of the ID Act, which is satisfied in this case.

As found from the observations of the Tribunal in Para-9 of the award in the instant case, the workman was a Casual Workman but he had put more than 240 days work in a year and the work done by him was not of a fixed period. The Tribunal has therefore, rightly held that merely because the concerned workman was a casual labourer, he could not be removed on that ground without following proper procedure. We have carefully perused the reasoning of the learned Judge of the Industrial Tribunal and we are satisfied that the finding of the Tribunal that the department has committed an error in removing the respondent from the service is legal and proper. The order of the Tribunal directing the department to reinstate the present respondents on its original posts with full

back wages, is also just, legal and proper. We find ~~that~~ ^{re} no sufficient reason to interfere with the said findings. We do not find any illegality committed by the Tribunal in reaching the said conclusion nor is any error committed in following the procedure **which** has resulted in miscarriage of justice. Hence, the application is rejected.

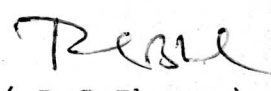
" ORDER

The application is dismissed.

No order as to costs."



(V. Radhakrishnan)
Member (A)



(R.C. Bhatt)
Member (J)

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