

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 301 of 1990

~~EX-106~~

DATE OF DECISION 12.7.1993

Amratkumar M. Jadav Petitioner

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

Versus

Union of India & Ors. Respondent

Mr. Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B. Patel

Vice Chairman

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 ?

No

Amratkumar. M. Jadav,
204/205, Samnath Nagar Society,
Near Bhilvas, Sarangpur,
Ahmedabad.

.....Applicant

Advocate

Shri P.H. Pathak

Versus

1. Union of India through
The Chief Postmaster General,
Navarangpura,
Ahmedabad.
2. The Assistant Superintendent
of Post Offices,
Ahmedabad North Sub-Division,
Revdi Bazar,
Ahmedabad.

Advocate

ORAL JUDGMENT

IN

O.A. No.301 of 1990

Date:- 12-7-1993

Per Hon'ble

Shri N.B. Patel

Vice-Chairman.

The applicant was employed in the Postal Department as ED Stamp Vendor since 1981 and re-engaged from 13-10-1984 with some breaks in-between. His services have been orally terminated w.e.f. 26-2-1986 without giving him any notice or paying him any retrenchment compensation as required under section 25-F of the Industrial Disputes Act. The applicant states that he had completed more than 240 days of service till the date of his retrenchment and hence the oral termination of his service without any notice given


.....3/-


to him and without payment of any compensation to him, as required by Section 25-F of the Industrial Disputes Act, is illegal, void and is of no effect. He has, therefore, prayed for his reinstatement as ED Stamp Vendor with all consequential benefits such as payment of back-wages and continuity of employment etc.

There is no dispute about the fact that the applicant was employed as Stamp Vendor w.e.f. 13-10-84. There is also no dispute about the fact that his employment is terminated w.e.f. 26-2-86. In the reply, it is stated, in a rather vague manner, that it was not admitted that the applicant had completed 240 days of service at the time of termination of his employment. However, the applicant has produced at Annexure-A, a certificate dated 28-2-86 issued to him by the Sub-Postmaster(ESG), Gandhinagar Post Office, which shows that the applicant has worked as ED Stamp Vendor for the entire period ^{from} of 13-2-84 to 25-2-86, which means ^{that} he had worked for more than 240 days. It is then obvious that the termination of ^{the} applicant's employment without giving him any notice and paying him any compensation as envisaged by Section 25-F of the Industrial Disputes Act, is illegal and is liable to be set aside. The applicant is, therefore, entitled to claim reinstatement in service as if his services were never terminated. However, it was contended by Shri Kureshi that, even ^{if} ~~after~~ the application is allowed, the applicant should not be awarded any back-wages, because the applicant had approached the Tribunal more than 3 years after the termination of his services. As already stated, applicant's services were terminated on 26-2-86 and the applicant ^{has} approached the Tribunal

on 16-10-89 with an application for condonation of delay in filing the O.A. This delay-condonation application was allowed and the O.A. was admitted on 10-7-90. Since the applicant approached the Tribunal as late as on 16-10-89, we are of the opinion that the applicant should be awarded only 30% of back-wages from the date of termination of his services till 15-10-89 and he should be awarded full back-wages for the period from 16-10-89 till his actual reinstatement.

3. Accordingly we allow the application, set aside and quash the oral termination of the applicant and direct the respondents to reinstate the applicant in service as ED Stamp Vendor with continuity of service. We further direct the respondent to pay 30% back-wages to the applicant for the period from 26-2-86 to 15-10-89 and to pay him full back-wages for the period subsequent to 15-10-89 till the date of his reinstatement in service. The respondents are also directed to consider the applicant's request for regularisation. Our order of reinstatement of the applicant in service, shall be complied with within a period of 4 weeks, and, our order regarding the payment of back-wages, will be complied with within a period of 8 weeks from the date of ^{the} receipt of ^a the copy of this order.


(V. Radhakrishnan)
Member(A)


(N.B. Patel)
Vice-Chairman.