

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

NO
Termination

O.A. No. 362/90
T.A. No.

DATE OF DECISION 27-1-1998

Shri Girishkumar Parmar Petitioner

Shri D.K. Mehta Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

Vice Chairman.

The Hon'ble Mr. B.S. Hegde

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 ? ✓

Shri Girishkumar Parmar
S/o Shri Ramaniklal Parmar
Gujarat Housing Board, Room No 335
Tarsali, Dist. Baroda.

Applicant.

Advocate Shri D.K. Mehta

Versus

1. Assistant Superintendent,
Post Office, Baroda (East)
Sub-Division, Baroda.
2. Union of India,
Notice to be served through
the Secretary of the Indian
Post and Telegraph Department,
New Delhi
3. Sub-Divisional Inspector,
Dabhoi Postal Sub-Division,
Dabhoi, Dist. Baroda.

Respondents.

Advocate Shri Akil Kureshi

ORAL JUDGEMENT

In

O.A. 362 of 1990

Date : 27-1-1993.

Per Hon'ble Shri N.V. Krishnan

Vice Chairman.

The applicant has prayed for a declaration
that the action of the respondents in orally terminating
his service as Extra Departmental Agent Postman -

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is illegal and in violation of section 25 F of the Industrial Dispute Act 1947.

2. This cause of action has arisen in the following circumstances

2.1 The applicant was issued Memo dated 3-9-1986 (Annexure A-1) by the first respondent asking him to report at Makarpura Sub Office, in case he desired to work as EDA Dhanyavi. Accordingly, he joined that post.

2.2 It is stated that his services were subsequently terminated from 16-6-1990 because the permanent incumbent Shri D.J. Trivedi, who had been dismissed earlier, had resumed duties on that post.

2.3 Therefore, the applicant made representation on 18-6-1990 (Annexure A-3) to the first respondent to absorb him elsewhere. This was followed by Annexure A-4 representation to the third respondent. As these efforts did not bear fruit this application has been filed.

3. The respondents have filed a reply contesting the claims of the applicant. It is stated that in the Branch Post Office at Dhanyavi, Shri P.J. Trivedi, was employed regularly as EDA. However as some irregularities were noticed he was put off from duties from 3-9-1986 and removed from service from 27-9-1988. Though the first appeal was rejected by the Senior Superintendent of Post Offices Baroda, the petition filed to the Director Post Offices was accepted ^{by and by} ~~who~~ set aside ^{the} penalty of removal by an order dated 30-5-1990, Hence Mr. Trivedi



was taken back on service with effect from 14-6-1990 and, as a result, the applicant's services had to be terminated.

4. The respondents contend that under these circumstances, the applicant is not entitled to any relief.

5. We have heard the learned Counsel for the parties and perused the records. The main ground raised is based on violation of the provisions of section 25 F of the Industrial Dispute Act. It is now no more in dispute that the Postal Department is an industry and therefore, a person like the applicant, is also a workman. The respondents have no case that termination of the applicants service was effected after complying with the provisions of section 25 F of the Industrial Disputes Act.

6. Nor do they have a case that the termination is in accordance with contract of employment and is therefore not retrenchment for the purpose of section 2 (oo) of the Industrial Dispute Act. The respondents have not produced a copy of any appointment order to indicate whether there was such^a contract. As a matter of fact it is seen from Swamy's Compilation of Service Rules for Extra Departmental Staff in the Postal Department, that, in such circumstances, the provisional appointment should have been made in the proforma given in Annexure A and B annexed to the letter dated 18th May 1979, of the Director of Post and Telegraphs. The


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provisional appointment should have been made in terms of Annexure B.

7. We are therefore satisfied that the applicant has been retrenched in violation of the provision 25 F of the Industrial Disputes Act. He is therefore is entitled to the relief prayed for.

8. Therefore, while allowing this application we declare that termination of the applicants service is violative of section 25 F of the Industrial Disputes Act, and is ab initio void and therefore the applicant shall be treated as being in service as if the order of termination had not been issued at all and continue to remain in service until it is terminated in accordance with law. He is entitled to back wages with adjustment of any earnings from gainful employment, within two months from the date of receipt of this order. We make it clear that this order will not stand in the way of the respondents from taking any action to terminate the applicant's service in accordance with law. ^{so} Until it is terminated, the applicant shall be paid wages.

9. This order will also not stand in the way of the applicant from making a representation to the respondents to give him suitable post in view of his service. The application is disposed of with aforesaid directions, with no order as to cost.


(B. S. Hegde)
Member (J)


27/11/83
(N.V. Krishnan)
Vice Chairman