

Passing

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 48 of 1990
Case No.

DATE OF DECISION 2.3.1992

Shri Chellamuthu Thannapal Petitioner

Shri Shailesh Parikh Advocate for the Petitioner(s)

Versus

Union of India & Ors Respondent

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

CORAM :

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

The Hon'ble Mr.

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 Chellamuthu Thannapal,
B.G. Loco Shed,
Hutmens Area,
Gandhidham.

(S)
: Applicant

(Advocate : Shri Shailesh Parikh)

VS.

1. Union of India, through
The General Manager,
Western Railway,
Churchgate,
Bombay.

2. Asstt. Engineer,
Western Railway,
Engg. Department,
Gandhidham.

3. Permanent Way Inspector,
B.G. (Western Railway)
Engg. Department,
Gandhidham.

: Respondents

(Advocate : Shri B.R. Kyada)

O R A L - O R D E R
O.A. No. 48 of 1990

Date : 2.3.1992

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

None present for the applicant. Shri B.R. Kyada, learned advocate for the respondents, present. This application is filed under Section 19 of the Administrative Tribunals Act, 1985, by the applicant praying that the action of the respondents, Western Railway, in not making the applicant permanent to the post of Beldar be declared as arbitrary, illegal, null and void and to restrain the respondents from acting and implementing upon the order dated 8.1.1990, produced at annexure A/4. The applicant
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has also further prayed that the respondent be directed

to confirm the applicant to the post of Beldar at Gandhidham and to make him permanent to the said post, and to direct the respondents to make the payment of wages for the period from 26.6.1988 to 3.11.1988. The learned advocate for the respondents submits that this application suffers from the vice of multiple reliefs and the applicant should choose any one relief. Reading the relief clause 7 (A) to (D), I agree with the learned advocate for the respondents that the relief of declaration that the applicant should be made permanent to the post of Beldar at Gandhidham, second relief that the respondents should be restrained from implementing the order dated 8.1.1990 and the third relief that the respondents should be directed to pay wages for the period mentioned in para 7 (D) are distinct reliefs and none is consequential to the other. However, learned advocate Mr. Kyada for the respondents submitted that so far the prayer for 7 (B) and (D) are concerned, the applicant's grievance is satisfied. He read para 2 of the reply filed by the respondents in which it is mentioned that so far as order dated 8.1.1990 is concerned, it has been cancelled and the applicant has been ordered to resume duty at Gandhidham as Beldar and he has also resumed duty on 12.2.1990. Therefore, the relief prayed in para 7(B) does not survive at all as the applicant has resumed duty at Gandhidham as Beldar from 12.2.1990. So far relief in

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para 7(D), regarding payment of wages for the period from 26.6.1988 to 3.11.1988 is concerned, the respondents have contended in para 5 of their reply that the period from 26.6.1988 to 3.11.1988 has been sanctioned as leave due, vide office order dated 29.12.1989, and therefore the question that the representation of the applicant dated 26.12.1989 was not considered has no force at all. Learned advocate for the respondents submitted that no rejoinder is filed by the applicant in this case.

2. In view of the fact that the reliefs in para 7(B) & 7(C) of the applicant are satisfied as mentioned in the reply of the respondents and multiple reliefs cannot be allowed, no other relief could survive as it suffers from the vice of multiple reliefs.

3. Mr. Shailesh Parikh, learned advocate for the applicant appeared in court room after dictation of above order. I allowed him to argue. He submitted that the relief in para 7(A) to (D) are not multiple reliefs, but in my view these reliefs are independent and not consequential to one another. Mr. Parikh submitted that the main grievance of the applicant is that he should be made permanent in the post of Beldar and the action of respondents in not making the applicant permanent to that post should be declared as illegal. Even assuming that the prayer is genuine one, the relief in para 7(C) is the relief by which the applicant wants the respondents to confirm

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(OB)

him to the post of Beldar and that to at Gandhidham. Now this is completely independent to relief 7 (A). As observed above the two reliefs, 7 (B) and 7(D) are satisfied the question arises as to whether the applicant should be permitted to file another application about his grievance of not making him permanent as Beldar. Having regard to the facts and circumstances of the case, the applicant is permitted to file fresh original application for his relief for permanancy of his position as Beldar. Secondly there is minor grievance of the applicant that though leave from 26.6.1988 to 3.11.1988, as per the reply of the respondents is considered as leave due, but the applicant is paid less amount than what was due for this period. No Rule is shown to me at this stage as to how the grievance of the applicant remains and how he is paid less. Mr. Kyada, learned advocate for the respondents submitted that the leave due was sanctioned. However, if the applicant has any grievance he may make his representation about the less payment, if any, made for the period from 26.6.1988 to 3.11.1988 if payable according to Rules. Hence, I pass following order :-

O R D E R

The relief prayed in para 7(B) and (D) are satisfied, hence no order requires to be passed for these reliefs except that if the applicant has grievance that the wages for the period 26.6.1988 to

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(a)

3.11.1988 on the point that he is paid less, then he may make representation on that point to the authority concerned. The authority concerned may consider the representation of the applicant that may be made to it as to whether the leave due was sanctioned and if any amount required to be paid has not been paid as per Rules. The applicant is permitted to file fresh original application about the grievance that he should be made permanent as Beldar. The application is disposed of, Interim stay is vacated. ^{no orders as to cost}

R.C.Bhatt
(R.C.Bhatt)
Member (J)

*Ani.

CA/28/90
in
OA/48/90

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CORAM : Hon'ble Mr.A.V.Haridasan : Judicial Member
Hon'ble Mr.M.M.Singh : Administrative Member

8/8/1990

At the request of the applicant the case is
adjourned tomorrow, i.e, on 9.8.1990.

M. M. Singh
(M.M.Singh)
Administrative Member

A. V. Haridasan
(A.V.Haridasan)
Judicial Member

AIT

C.A./28/90

in

O.A./48/90

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CORAM : Hon'ble Mr.A.V.Haridasan : Judicial Member
Hon'ble Mr.M.M.Singh : Administrative Member

09/08/1990

Heard the learned counsel for the applicant.

The applicant has filed the original application challenging his posting. An interim order was issued by this Tribunal on 2.2.1990, ^M the order is, "status-quo will continue till the disposal of the prayer, for interim relief is decided." On 6.4.1990, it was reported by the respondents that the applicant has resumed duty with effect from 12.2.1990. In the reply statement filed in the original application the respondents has stated that the impugned order of posting was cancelled and that the applicant has resumed his duty as Beldar. So before resuming the duty as beldar on 12.2.1990, he was not working as a beldar and at the time of ordering the status-quo, the applicant could not have been working as a beldar. In this view of the matter it cannot be said that even if the respondents have issued an order ^M of transferring the applicant to the gang, the respondents have committed **any** contempt of this Tribunal's order. If the applicant is aggrieved by the order or subsequently transferring him to the gang, it is open for him to take recourse to appropriate action. As such **no** contempt is committed. Hence no action is called for in this matter.

M. M. Singh
(M.M.Singh)
Administrative Member

(A.V.Haridasan)
Judicial Member

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