

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 528 of 1996

~~Case No.~~

DATE OF DECISION 10.3.1995

Pravin S. Parmar & Others **Petitioner**

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

Versus

Union of India & Others **Respondent**

Mr. Akil Kureshi **Advocate for the Respondent (s)**

CORAM

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

The Hon'ble Mr. DR. R.K. Saxena, Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(9)

1. Pravin S. Parmar & Others
2. Bharathiya Telephone Employees Union
(Line Staff & Group D)
Through its Circle Secretary
Shri J.R. Rajvanshi,
having office at
220, Samarthnagar, Nr. Indira Bridge,
Hansol, Ahmedabad-382475. Applicants
(Advocate: P.H. Pathak)

Versus :

1. Union of India,
Notice to be served through
General Manager,
Ahmedabad Telecom District,
Ahmedabad
2. Asst. Engineer (Rectt.)
Ahmedabad Telecom Dist.,
Ahmedabad. Respondents
(Advocate : Mr. Akil Kureshi)

JUDGEMENT

O.A. No. 528 of 1990

Date: 10.3.1995.

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

Heard Mr. P.H. Pathak and Mr. Akil Kureshi Learned
Advocates for the applicant and the Respondents respectively.

The applicants (six in number) were working as Casual
Labourers were working in the Telecommunication Department in
Ahmedabad as Casual Labour. Details of their appointment are
given in Annexure A. There is no dispute that these persons
continued to work for more than five years. They had made
representation to the respondents for granting of temporary
status. The applicants were issued the termination notices on
1.12.90 Annexure A 3. Some other employees had earlier
approached the Tribunal in O.A. 459/88 challenging the order
of termination and they were continued by the interim order of

Abh

this Tribunal. One of the contentions taken by the applicants is that provisions of the I.D. Act 1947 were not fully complied with. It is stated that the Union had issued notices under section 22 of the I.D. Act and the matter was pending before conciliation Officer and proceedings had commenced under Section 20(i) of the said Act. As the Conciliation Ptoceedings were pending, it is stated that Respondents issued termination notices without getting approval of the appropriate authority as per section 33 of the said Act. They have also stated that applicants were not given temporary status under the scheme formulated by the Respondents on the ground that they were appointed after 1985. They also allege violation of Section 25 B and 25 E of the I.D. Act as the Respondents have not followed the principles of ' last come first go' in termination of services of the employees. Moreover, seniority list of the employees has not been published as per Rule 77 of the I.E. Rules (Central). Moreover, even though the notice was given to the applicant, no retrenchment compensation was paid. This violates Rule 25F of the I.D. Act, hence they requested for the following reliefs :-

- a) The Hon'ble Tribunal be pleased to hold that the action of the respondents to issue the notice of termination, is *ex-facie* arbitrary, illegal and violative of Art. 14 and 16 of the Constitution of India and be pleased to quash and set aside it and direct the respondents to continue the applicants in services with all consequential benefits.
- b) Be pleased to direct the Respondents to regularise the services of the applicants after their completion of 360 days of services as per the direction of the Hon'ble Supreme Court.
- c) Be pleased to declare that the impugned action on the part of respondents to continue the applicants as casual daily rated employees for years and to deprive them of the status and benefits of regular employees as unfair labour practice.
- d) Be pleased to direct the respondents to regularise the applicants and to pay them all consequential benefits considering them as regular employees since their initial date of appointment.

Agh

e) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice.

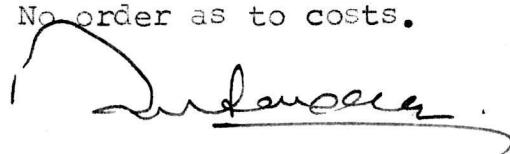
The applicants were also granted interim relief by this Tribunal and the termination orders were held in abeyance.

The Respondents have filed reply and they have denied the allegations made by the applicants. They have stated that the applicants were working as casual labour and purely temporary on an adhoc basis. According to them, the higher authorities had issued instructions to stop fresh recruitment of casual labour and only casual labour who had been engaged up to 30.3.85 were eligible for temporary status as per scheme formulated by the Department Annexure R1. They have also stated that the procedure specified in Section 25 R of I.D. Act were followed and notice of one month was given before terminating their services. They ~~xx~~ also denied violation of Section 35 of I.D. Act. They also denied that termination notices were issued during the conciliation proceedings as there was no conciliation proceedings were pending on that date. They have also denied that juniors to the applicants are being continued. They also stated that they are maintaining up to date seniority list of casual labourers recruited up to 31.3.85. Hence, they have stated that there was no violation of any other provisions of I.D. Act, and prayed for rejection of the application.

We heard Mr. Pathak and Shri Akil Kureshi Learned Advocates for the parties. It was mentioned by Shri Akil Kureshi that the higher authorities of the Respondents have extended the scheme of granting temporary status for all casual labour in service ~~31.3.85~~ ^{between} to 22.6.88. There is no dispute about the fact that the applicants have completed more than 240 days ^{in one year} prior to the date of termination of the services.

AK

Accordingly they should have been given retrenchment compensation at the time of termination under the provisions of the Section 25 F of the I.D. Act. This was not done even though notice was issued. In view of this, non compliance by the Respondent Department of the provision of the I.D. Act, the terminations have to be quashed and set aside. We accordingly do so. Termination orders issued are quashed and set aside (Annexure A3.) The interim order granted earlier, ^M are made absolute. The applicants should be treated to be in continuous service with consequential benefits. In so far as the regularisation of the applicants is concerned, the Respondents are directed to consider their cases for grant of temporary status in accordance with the scheme formulated by them within a period of twelve weeks from the date of receipt of this order. With above directions, the O.A. stands disposed of. No order as to costs.


(Dr. R.K. Saxena)
Member (J)


(V. Radhakrishnan)
Member (A)