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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 78 and 79 of 1990
T.A. No.

DATE OF DECISION 8th October 1992

Shri Bhaya Soma and Ors. Petitioner

Shri R. V. Sampat Advocate for the Petitioner(s)

Versus

Union of India and Ors, Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan

Vice Chairman

The Hon'ble Mr. R.C. Bhatt

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 ?

Bhaya Soma
 Nasrin Manzil
 M.G. Road
 Opp. Old Bus Stand
 Junagadh 362 001.

Applicant in O.A. 78/90

Advocate Shri R.V. Sampat

And

Shri Kanu Ranchod,
 E/o R.V. Sampat,
 Advocate,
 'Nasrain Manzil'
 M.G. Road,
 Opp. Old Bus Stand
 Junagadh - 362 001

Applicant in O.A. 79/90

Advocate Shri R.V. Sampat

Versus.

1. Union of India
 Through the General Manager
 Telecom, Gujarat Circle
 Ahmedabad.
2. The Telecom Dist. Engineer (TDE)
 Genda Agad Road, Junagadh.
3. The S.D.O.P, SDOP Office
 Veraval

Respondents in O.A. 78/90 and
 in O.A. 79/90

ORAL JUDGEMENT

In

O.A. 78/90 and 79 of 1990

Date : 8th October 1992.

Per : Hon'ble Shri R. C. Bhatt Member (J)

Shri R.V. Sampat advocate for the applicants
in both the O.A.

Shri Akil Kureshi advocate for the respondents
in O.A. 78/90 and 79/90.

These two applications have been heard together
by consent of the learned Advocate's of the parties and
are being disposed of by common judgements.

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2. These two applications have been filed by the Casual labourer under section 19 of the Administrative Tribunal Act, 1985 pertaining almost identical facts namely that both of them were serving in the office^{of} of Telecom District Engineer (T.D.E) Junagadh, and were terminated by the Oral order dated 1st October 1989. According to the applicants, they were working with the respondents since 1985 and the respondents have illegally terminated their services orally on 1st October 1989. It is alleged by the applicants that their services are terminated by respondents without complying the provisions of section 25 (F) of the Industrial Disputes Act and hence the oral termination order dated 1st October 1989, being illegal, be quashed and set aside and both the applicants be reinstated in service with full back wages and continuity of service. The respondents in both these cases have filed almost identical reply contending that the Casual Labourers were not to be re-engaged after 1st March 1985 as per Government Policy. The respondents have denied that each applicant is 'workman' or the respondent is 'an industry', and they have prayed that the applications be dismissed. Each applicant had filed rejoinder controverting the contentions taken by the respondents in the reply.

3. The First point which arises for our consideration whether applicant in each case is a workman and a respondent 'an industry' as defined in Industrial Disputes Act.

4. The applicant is admittedly a Casual labourer in the Telecom Department, and it is now well settled that Telecom Department is an industry as defined in the

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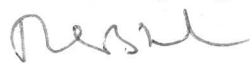
Dispute Act and hence the Casual labourer working in that Department is a 'workman'. Thus the provisions of Industrial Dispute Act will apply in both these cases. It is not disputed that no notice of termination was given nor any compensation was paid to the applicant before orally terminating their services. The learned Advocate for the applicants submits that the action of the respondents in terminating the services of the applicants is violative of Section 25 (F) of the Industrial Dispute Act and hence it was an illegal retrenchment. The learned Advocate for the applicants have drawn our attention to the certificates A-4 produced in each case which shows that each applicant has worked for more than 240 days in a year preceding the date of their oral termination on 1st October, 1989. Respondents have denied that each applicant has worked for more than 240 days in a year preceding the date of their termination. They have not been able to repel the documentary evidence Annexure A-4 given by the Sub-Divisional Office of their department. In this view of the matter we reject the said contention of the respondents and we rely on the certificate A-4 produced in each case, which shows that each applicant has worked for more than 240 days in a year preceding the date of his termination. In this view of the matter, each applicant can be said to be in continuous service prior to his termination as per section 25 (B) of the Industrial Disputes Act. The respondents,


therefore, before terminating the services of these applicants, ought to have followed the mandatory requirement of Section 25 (F) of the Industrial Disputes Act, but admittedly they have not followed the same and hence the oral termination of both these applicants is illegal and hence the same requires to be quashed and set aside and we do so. The respondents, therefore, shall have to reinstate both applicants with full back wages, as we have held that the oral termination is illegal. We, therefore, allow these applications and pass the following order .

O R D E R in O.A. 78/90 and 79/90

5. Both the applications are allowed. The order of oral termination of the applicants on 1st October 1989, is held illegal and the same is required to be quashed and set aside and the same is quashed and set aside. The respondents are directed to reinstate the applicants in service within two months from the date of receipt of this order and are directed to pay all back wages to the applicants within three months from the date of receipt of this order ~~with continuity~~ of service. The applicant in each case to file affidavit before respondents about the gainful employment if taken during this period to enable the respondents to decide to what extent the back-wages are liable to be paid to the applicants.

No orders as to cost. Applications are disposed of. Copy of this judgement to be kept in each case.


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


(N.V. Krishnan)
Vice Chairman