

(5)

Suspension

Case No.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 109 OF 1991

~~Exhibit No.~~

DATE OF DECISION 03.07.1991

Mr.Temul M.Wadia Petitioner

Shri G.I.Desai Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Mr.P.M.Raval Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M.Singh : Administrative Member

The Hon'ble Mr. S.Santhana Krishnan : Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

Mr. Temul M. Wadia,
Tradesman/ B and
Kamdar Sangh
General Secretary of Bhari Pani,
Heavy Water Plant,
at and post Fertilizernagar,
DISTRICT BARODA - 391 750.

.... Petitioner

(Counsel : Mr. G.Z. Desai)

Versus

1. The Union of India, through
Chief Executive,
Heavy Water Board,
Vikram Sarabhai Bhavan,
Anushakti Nagar,
BOMBAY - 400 094

2. General Manager,
Heavy Water Plant,
at and post Fertilizernagar,
DISTRICT BARODA-391 750

.... Respondents

(Counsel : Mr. M.R. Rawal for
Mr. P.M. Rawal)

O R A L O R D E R

C.A. No. 109 of 1991

Date : 3.7.1991.

Per : Hon'ble Mr. M.M. Singh

: Administrative Member

1. This original application has been filed under Section 19 of the Administrative Tribunals Act, 1985, to challenge the order of suspension of the applicant seeking the declaration that the said order is illegal, null and void, and therefore to be quashed and set aside.
2. The body of the application shows that the applicant was elected to Bhari Pani Kamdar Sangh as a Secretary of the Sangh in 1991, and he is taking steps to solve the staff grievances. As the eastern side door of the canteen was closed, he had taken objection. However, the respondents did not change their decision. The dispute was taken to the Civil Court which granted stay in favour of the Sangh. The applicant objected to the creation of two posts of General Manager in

M. M. L.

one year which affected the chances of promotion of other employees besides throwing unnecessary financial burden on the nation. The petitioner represented to the Assistant Labour Commissioner (Central). A series of letters came to be issued to him to show that he was leaving place of his duty. The applicant questions the legality of such letters on the ground that he has been solving the staff grievances during office hours and has been seeing and meeting concerned officers for the purpose and also preparing the representations. All these activities of the applicant have prejudiced the respondents which resulted in his being placed under suspension. It is alleged that it is because of this prejudice that charge has been framed against him. One of the grounds advanced is that before serving the charge sheet and placing the applicant under suspension the respondents have not taken into confidence the President of the Union of the Employees, who was kept in darkness about it. The applicant also claims that he is a protected workman as per the provisions of the Industrial Disputes Act, 1947, Section 33 which bars employer from taking action against protected workman in a dispute.

3. The orders of suspension is issued in exercise of the powers under Sub Rule (I) Rule 10 of the CCS (CCA) Rules, 1965, The Memorandum and Articles of charges which are served on the applicant have been issued on the very date the order of suspension was issued, namely, March, 26th 1991.

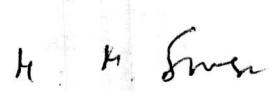
4. The respondents have taken the plea that the applicant's application is premature and he has to defend himself by filing a reply and taking other measures in his defence with concerned departmental authority. He cannot avoid doing that by filing application in this Tribunal.

5. Heard learned advocate Mr. G. Z. Desai, for the applicant, He makes a statement at the bar that the applicant has so far not filed a reply to the charge sheet given to him.

6. In entertaining applications, this Tribunal, has to strictly in accordance with the provision of the Administrative Tribunals Act. The relevant provisions in the instant case would be Sections 19 and 20 of the Administrative Tribunals Act, 1985, When the applicant has been placed under suspension and charge sheet has been given to him, this Tribunal would be loath to interfere in the process of the enquiry by staying that enquiry which will amount to depriving the departmental authority of the applicant to complete the enquiry and come to a final order against which, if advised, the applicant can approach the concerned departmental authority by way of departmental appeal and, after exhausting all statutory departmental remedies, approach this Tribunal. In this view of the matter the application is liable to be rejected.

7. The applicant is free to pursue his remedy in the relevant Industrial or Labour Court as the case may be. That will have nothing to do with our rejecting this application as premature.


(S. SANTHANA KRISHNAN)
Judicial Member


(M.M.SINGH)
Administrative Member

Mr. Temul M. Wadia,
Tradesman/ B and
Kamdar Sangh
General Secretary of Bhari Pani,
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