

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(25)

O.A.NO./43/91
~~T.A.NO.~~

DATE OF DECISION 28.3.2000

Mahendra D. Macwan & Others Petitioner

Mr. K.K. Shah Advocate for the Petitioner [s]
Versus

Union of India & Others Respondent

Mr. N.S. Shevde Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V, Ramakrishnan, Vice Chairman.

The Hon'ble Mr. Mr. P.C. Kannan, 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 ?

1) Mahendra D. Macwan
residing at:
Post Khandali (NAPA)
Taluka Anand
Dist. Kheda.

2) Chandulal P. X
Visva Karma Deep
Narsinghpura
Opp. Bus Station
Dra. gadhra.

3) Ajit Singh Chauhan
Office at
2nd floor, Station Building
Western Railway, Ahmedabad.

Address for service of notices:

Kiran K. Shah
Advocate
3, Achalayatan Society Div. II
Near Memnagar Fire Station
Ahmedabad- 380 009.

Applicants

Advocate: Mr. K.K. Shah

Versus

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

2. Divisional Railway Manager
through Sr. Divl. Signal &
Telecommunication Engineer
Pratapnagar, Baroda.

3. Chief Telecommunication
Inspector, Western Railway
Ahmedabad.

Respondents

Advocate: Mr. N.S. Shevde-

ORAL ORDER

IN

Dated 28.3.2000

OA/43/91

Per Hon'ble Mr. V. Ramakrishnan, Vice Chairman;

We have heard Mr. K.K. Shah for the applicants
and Mr. N.S. Shevde for the respondents.

2. The applicants are aggrieved by the retrenchment notice dated 21.10.88 as at Annexure A-6. They have also prayed for consideration for absorption in T.C.M. Class III posts in which they were ^{reverted} recorded as unapproved substitutes. The employees were working as TCM- III in Group -C category.

3. Mr. K.K.Shah for the applicants submits that the Tribunal by its interim order dated 25.2.91 had directed that the termination order should be stayed and as such they were continued in TCM in Group C cadre. He contends that the termination order is not legal as it does not conform to the requirements of the law. ~~XXXX~~ He also says that the applicants have a right to be regularised as they were engaged in Group 'C' category.

He refers to the various contentions pertaining to the applicant brought out in pages 6 to 9 of the O.A. He says that they were engaged as Fitters in the Skilled category in Group C as casual labour substitutes. Their services were terminated in the past but they had approached High Court and they were continued in service. Similarly after getting the present termination ~~kk~~ notice, they have approached the Tribunal and by virtue of the interim direction they were continued in service. Mr. K.K.Shah says that there is a provision for direct recruitment

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against group C post and certain percentage is laid down against which it is possible for the casual labourers engaged in that level to be directly absorbed in Group C category instead of having to be absorbed at Group D level and the Railways have to take note of this aspect and also take into account the fact that they were serving for long in the Railway Admn. from 1977 onwards.

4. Mr. Shevde submits that earlier the Railways wanted to terminate their services but in view of the interim direction of the Tribunal the Railways do not propose to act on the termination notice and applicants would not be retrenched. We record the statement of Mr. Shevde.

As regards regularisation, Mr. Shevde says that the same has to be considered in accordance with the rules and regulations and also the claims of other employees.

5. We have carefully considered the submissions of both the sides. We find that the termination notice is challenged alleging non-compliance of provisions of Section 25-F of the Industrial Dispute Act. This Tribunal has no jurisdiction to entertain matters pertaining to I.D. Act as has been held by the Supreme Court. As the main relief cannot be entertained it is not open to the Tribunal to give any direction on the subsidiary issues. We, however, have recorded the statement of Mr. Shevde that the applicants are not going to be ^{retrenched.} It is open to the

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applicants to submit a representation incorporating the various points which are brought out by Mr.K.K. Shah. If they submit such a representation, we have no doubt that the Railways will take into account all relevant aspects and pass appropriate orders particularly keeping in view the fact that employees were in service from 1977 onwards.

6. O.A. is disposed of with no orders as to cost.

P. C. Kannan

(P.C.Kannan)
Member (J)

V. Ramakrishnan

(V. Ramakrishnan)
Vice Chairman

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