

Termination (No.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 72 of 1992
~~E.A. No.~~

DATE OF DECISION 20.2.1992

Shri Isaq Ibrahim Patel Petitioner

Shri S.D. Talati Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B.B. Naik Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.Y. Pradkar : Member (A)

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 ? ✗

Shri Isaq Ibrahim Patel,
Suleman Street,
At Post : Kantharia
Ta. and Dist, Bharuch

: Applicant

(Advocate : Shri S.D. Talati)

VS.

1. Union of India,
Dept. of Telecommunication,
Sanchar Bhavan,
NEW DELHI.

2. Telecom District Engineer,
Bharuch Division,
60, Patel Society,
BHARUCH.

: Respondents

(Advocate : Shri B.B. Naik)

O R A L- O R D E R

C.A. No. 72 of 1992

Date : 20.2.1992

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

Heard Mrs. Talati for Shri S.D. Talati, learned advocate for the applicant and Shri B.B. Naik, learned advocate for the respondents. We admit this matter and dispose of the same finally. The main grievance of the applicant as mentioned in the application is that the order of termination of the applicant, produced at annexure A/3, by the Telecom District Engineer is not legal and valid. The applicant had previously filed original application No. 255 of 1990 before this Tribunal challenging the said order, and this Tribunal by its decision dated 25.6.1990 directed the respondent no.1

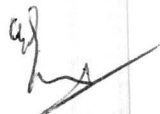
to dispose of the representation within two months from the receipt of the copy of the order of the Tribunal by recording a speaking order on merits. The grievance of the applicant is that inspite of these directions, the respondent no.2 has not disposed of the representation. The specific averment is found in ground 'H' of the application, ~~which~~ ^{it} is very unfortunate that the authority concerned takes the direction of the Tribunal very lightly and has not cared to comply with the order. In our opinion, it was the duty of respondent no.2 to comply with the direction of this Tribunal within the specified time given to him. The learned advocate for the respondents submitted that on receipt of copy of the representation from the learned advocate for the applicant, he would impress upon respondent no.2 to decide the representation of the applicant as directed in O.A. No.255 of 1990 latest within two months. Hence the following order :-

O R D E R

The respondent no.2 to comply with the direction given by this Tribunal in O.A.No.255 of 1990 decided on 25.6.1990. The application is disposed of on merits accordingly.



(R.C. Bhatt)
Member (J)



(M.Y. Priolkar)
Member (A)

Shri Isaq Ibrahim Patel,
Suleman Street,
At Post : Kantharia
Ta. and Dist, Bharuch

: Applicant

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1. Union of India,
Dept. of Telecommunication,
Sanchar Bhavan,
NEW DELHI.

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O R D E R

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(R.C. Bhatt)
Member (J)

(M.Y. Priolkar)
Member (A)

.....

Central Administrative Tribunal Ahmedabad Bench.

Application No. OA/72/82 of 199


Transfer Application No. _____ Old Writ Pet.No. _____.


CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 10/3/82

Countersigned:


Section Officer/Court Officer.


Signature of the
Dealing Assistant.

INDEX SHEET

PART A B & C

[illegible]

.....

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted: C.A.T./JUDICIAL SECTION.

Original Petition No: 72

of 1991

Miscellaneous Petition No: -

of -

Shri Isag Ibrahim Patel

Petitioner(s)

Versus.

Union Respondent(s).

This application has been submitted to the Tribunal by
Shri _____.

Under Section 13 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant/Advocate may be advised to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT:

S.O.(J):

D.R.(J):

KNP181191

V.L. not filed received 27/11/91

Full size envelope not filed

26/11

27/11

we may issue objection letter

31/11

S.O. on issue

27/11 31-1-92

PO

Advocate concerned has removed
office objections to day : me
may fix for a discussion

(P)

12/2/92

S.O.B.

dy 2/3

objection

13-2-92

discussion

13-2-92.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT(S)

Isaq Ibrahim Patel

RESPONDENT(S)

UAT & onPARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION.

1. Is the application competent ? *Yes*
2. (A) Is the application in the prescribed form ? *Yes*
- (B) Is the application in paper book form ? *Yes*
- (C) Have prescribed number complete sets of the application been filed ? *Yes*
3. Is the application in time ? *Yes*
If not by how many days is it beyond time ? *Yes*
Has sufficient cause for not making the application in time stated ? *Yes*
4. Has the document of authorisation/ Vakalat Nama been filed ? *Yes*
5. Is the application accompanied by D.D./I.P.O. for Rs. 50/-? Number of D.D./I.P.O. to be recorded. *DD No 01 875452*
6. Has the copy/copies of the order(s) against which the application is made, been filed. ? *Yes*
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed. ? *Yes*
- (b) Have the documents referred to in (a) above duly attested and numbered accordingly ? *Yes*
- (c) Are the documents referred to in (a) above neatly typed in double space ? *Yes*
8. Has the index of documents has been filed and has the paging been done properly ? *Yes*

...2..

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT
OF EXAMINATION.

-
9. Have the chronological details of representations made and the outcome of such representation been indicated in the application.? *Yes*
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ? *no*
11. Are the application/duplicate copy/~~ppate~~ copies signed.? *Yes*
12. Are extra copies of the application with annexures filed.? *Yes*
- (a) Identical with the Original.
- (b) Defective.
- (c) Wanting in Annexures
- No. _____ Page Nos. _____ ?
- (d) Distinctly Typed ? *no*
13. Have full size envelopes bearing full address of the respondents been filed? *Yes*
14. Are the given addressed, the registered addressed ? *Yes*
15. Do the names of the parties stated in the copies, tally with Name(s) those indicated in the application? *Yes*
16. Are the transations certified to be true or supported by an affidavit affirming that they are true? *Yes*
17. Are the facts for the cases mentioned under item No.6 of the application?
- (a) Concise ?
- (b) Under Distinct heads ?
- (c) Numbered consecutively ?
- (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons.? *Yes*

Checked
26/11/91

OA/st.1435/91

22/10/91

BEFORE THE HONOURABLE ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO. 72 OF 1990

Isaq Ibrahim Patel Petitioner.

Vs.

Union of India & Anr. ... Respondents.

I N D E X

S.No.	Ann.	Particulars.	Pages No.
1.	-	Memo of Application	1 to 4 1 to 12
2.	'A/1'	Copy of communication dated 22.10.1983.	15 10
3.	'A/2'	Copy of communication dated 23.1.1984.	16
4.	'A /3'	Copy of termination order dtd. 19.1.1990.	17
5.	'A/4'	Copy of Representation dated 26.2.1990.	18-21
6.	'A/5'	Copy of order dt. 25.6.90.	22-23

Ahmedabad.

(S.D. Talati)

Date: 22.10.1991

Advocate for the petitioner.

BEFORE THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO. 72 OF 1990

Isaq Ibrahim Patel,
Suleman Street,
At Post: KANTHARIA
Ta: and Dist: Bharuch,
Pin 392 162.

.....PETITIONER.

V/s.

1. Union of India,
Department of ~~XXXX~~ Telecommunication,
Sanchar Bhavan, New Delhi.

2. Telecom District Engineer,
Bharuch Division,
60, Patel Society,
Bharuch.

.....RESPONDENTS.

APPLICATION UNDER PROVISIONS OF THE
ADMINISTRATIVE TRIBUNAL, 1985

1. Particulars of the petitioner :

- | | |
|--|---|
| (i) Name of the petitioner | : Isaq Ibrahim Patel. |
| (ii) Name of the father | : Ibrahim Ismail Patel. |
| (iii) Designation and Office
in which employed. | : Technician- Bharuch
T.P.H. Exchange. |
| (iv) Office address. | : Nil. |

2. Particulars of the Respondents.

- | | |
|--|----------------------------------|
| (i) Name and/or Designation
of the Respondents. | As stated in the Cause
title. |
| (ii) Office address of the
Respondents. | |
| (iii) Address for service of
all notices. | |

3. Particulars of the order
against which application
made. The application is
against the following &
order :

- | | |
|------------------|----------------------------------|
| (i) Order No. | : No. 0/516/ii/26. |
| (ii) Date | : Dated 19.1.1990. |
| (iii) Passed by. | : Telecom Dist. Enggr., Bharuch. |



(iv) subject in brief : The petitioner was selected by Staff Selection Committee for the post of Technician. Having successful completion of theoretical training and practical training in the year of 1984 was appointed and posted as Technician against clear vacancy. The Respondent-authority has without assigning any reason terminated the services of the petitioner. The petitioner has made a Representation through proper channel address to the Respondent No.1 which has remained undecided till today. Hence the petitioner is challenging this termination order in this application.

4. Jurisdiction of the Tribunal. : The petitioner declares that the subject matter of the decision against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

5. Limitation : The petitioner further declares that the application is within the limitation prescribed in Sec.21 of the Administrative Tribunals Act, 1985.

6. Facts of the Case :

(i) The petitioner says that he possesses Educational Qualification of S.S.C. Examination passed. The petitioner has also passed course of I.T.I. (Electrician). The petitioner is holding essential eligibility to be appointed to the post of Technician under establishment of Respondent-authority. The petitioner says that the Respondent authority has issued Public Notice in the Local news paper for selection and recruitment to the post of Technician. In response to the said Notice the petitioner has applied and since the petitioner was eligible for appointment to the said post he was called for selection before the selection Board duly constituted by the Respondent-authority. The petitioner was found to be suitable by the Selection Committee and thereupon the said Select committee selected the petitioner and recommended

his name for appointment to the post of Technician. The petitioner submits that under the Rules laid down by the Respondent-authority a direct recruit trainee is required to undergo the theoretical and practical training. Accordingly, the petitioner was sent for 9 months theoretical Training at Ahmedabad. The petitioner has successfully completed the theoretical training and thereafter by Memo No.C-2/Tech./64 dated 22.10.1983. The petitioner alongwith the other trainees were sent for practical training. The said practical training completed on 23.1.1984 and on successful completion of training as per communication dated 23.1.1984 under signature of Assistant Engineer, RROC(T)PS, Ahmedabad. The petitioner was appointed and posted as Technician direct recruit under the Respondent No.2. The petitioner says that appointment and posting of the petitioner was on regular basis and against the clear vacancy. A copy of the communication dt.22-10-83 and 23-1-84 are enclosed herewith and marked as Annexure A/1 and Ann. A/2 respectively.

Ann. A/1 2
Ann. A/2

(ii) The petitioner says that since from the date of joining the service he has put in sincere and meritorious service with the Respondent-authority. The service record of the petitioner is neat and clean and the petitioner has not indulged into any activity of either misconduct or negligence during the course of his service. No inquiry whatsoever has ever been contemplated, nor any Memo for censured has been given to the petitioner. The petitioner submits that he has served the Department with utmost sincerity and his superior officers were happy and satisfied with the integrity, honesty and sincerity of the petitioner.

The petitioner submit that since his appointment was made after due selection and on the clear vacancy it was obligatory upon the Respondent-authority to consider the case of the petitioner to declared him as quasi permanent employee. The petitioner further submit that since there was no question of doubting quality of the work, conduct, character and suitability of the petitioner, in absence of any such thing on record the Respondent-authority were expected to declared him as quasi-permanent employee in the year 1987. itself. However, the Respondent-authorities have not taken any steps to issue such declaration and as and when the petitioner has requested he was informed by the authority that such declaration will be made in due course and as the petitioner is offered all benefits available to permanent employee he should not worry for procedural delay. The petitioner has taken such promises on face value and he believed the same to be true.

- (iii) The petitioner says that ~~he~~ he was waiting for order of declaration assigning him quasi permanent status in service. However, to the shock and surprise to the petitioner he was ^{served} with an order dt. 19.1.1990 under the signature of Respondent No.2 terminating the services of the petitioner in exercise of the powers conferred upon the authority under provision to sub-Rule (1) of Rule 5 of the Central Civil services (Temporary Service) Rules, 1965, it is stated in the said order that the services of the petitioner is terminated forthwith and it is also stated that the petitioner shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rate at which

he was drawing them immediately before the termination of his service, or as the case may be, for the period by which such notice falls short of one month. A copy of the termination order is enclosed herewith and marked as Ann. A/3 to this application.

- (iv) , The petitioner submits that having received the termination order he has made Representation dated 26.2.1990 addressed to the Respondent No.1. In the said Representation the petitioner has by making the reference to the different Notification of the Government as challenge legality and validity of the termination order passed by the Respondent No.2 and prayed for quashing and setting aside the termination order and claimed re-instatement in service to the original post with full back wages and all other consequential benefits. The petitioner says that the said Representation is sent through proper channel and advanced copy thereof has been sent directly by Regd. Post A.D. A copy of the ~~representation~~ ^{representation} ~~dated 26-2-90~~ ^{dated 26-2-90} are enclosed herewith and marked as Ann. A/4 to this application.

Ann. A/4

- (v) The petitioner submit that the Representation made by him is received by the Respondent No.1 but he has neither considered the same nor even acknowledge the receipt thereof. The petitioner submit that since the order of termination has become operative his family has put to an end of starvation and there is no certainty as to when the decision was taken by Respdnt. No.1 on the Representation of the petitioner. In the circumstances, the petitioner has no other prompt, adequate or equally efficacious alternative remedy at ~~xx~~ law but to approach this Hon'ble Tribunal on the following main amongst the other grounds which

are without prejudice to one another.

- (vi) The petitioner has previously filed O.A.No.255/90 in which after hearing the parties the order was passed on 25.6.1990 ~~with~~ directing the Respondent No.1 to disposed of the Representation of the petitioner within 2 months from the receipt of the order. Till today it has not been decided by Respondent No.1.. Hence the petitioner ^{has} no other alternative and efficacious remedy except to file this Application. The copy of the order dt.25.6.90 is annexed and marked as Ann-A/5 herewith

Ann. A/5

: G R O U N D S :

- (A) The petitioner submits that impugned decision of the Respondent authority to terminate the service of the petitioner by exercising the powers conferred upon it in Rule 5 of the Central Civil services (Temporary service) Rules, 1965, is illegal, arbitrary, discriminatory and violative of Art.14 and 16 of the Constitution of ^{India} ~~of India~~ and against the principles of natural justice and contrary to set up principles of law laid down by the Hon'ble Supreme Court of India as well as several High Courts and this Tribunal in the matter of termination of the service and therefore order to the petition is requires to be quashed and set aside by this Honourable Tribunal.

- (B) The petitioner submits that the facts cannot be denied by the Respondent authority that he was appointed on regular basis against a clear vacancy, after successful completion of theoretical and practical training, long back

in the year 1984. The petitioner submits that he has maintained neat and clean service record and it was obligatory upon the Respondent-authority to consider and declare the petitioner as an employee with quasi permanent status in the year ~~1985~~ 1987 itself. The petitioner submits that for in-action on the part of the Respondent-authority the petitioner cannot be treated as temporary employee and it is not open for the Respondent-authorities to resort to the power of termination under Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965. The petitioner therefore submits that since he has completed more than 6 years of service as regular employee he should be treated, deemed to be quasi permanent employee and the Respondent authority has no jurisdiction or authority to terminate the services of the petitioner under Rule 5 of the aforesaid Rules. The petitioner therefore submits that the impugned action of the Respondent authority is illegal, null and void and therefore the impugned termination order deserves to be quashed and set aside by this Honourable Tribunal.

- (C) The petitioner submits that there is nothing on record with the Respondent authority to show that during the period of first three years the petitioner has not attained suitability to acquire quasi-permanent temporary status. There is also nothing on record with the Respondent authority to show that the case of petitioner was considered for assigning quasi-permanent status in the year of 1987. The petitioner is conscious about the fact that he has no right to claim automatic quasi-permanent status

on completion of 3 years of service, but on the other hand an obligation is casted upon the Respondent-authority to consider the case of the petitioner for assigning quasi-permanent status immediately on completion of period of 3 years. The petitioner submits that since the Respondent authority failed to consider the case of the petitioner within the stipulated time, they should not be permitted to exercise the powers treating that no quasi-permanent status has been assigned to the petitioner. The status is assigned to the petitioner and services of the petitioner cannot be terminated by the impugned order. The petitioner submits that the impugned order is arbitrary, discriminatory and violative of Art.14 and 16 of the Constitution of India and therefore it requires to be quashed and set aside by this Hon'ble Tribunal.

(DI) The petitioner submits that he has never been served any notice or memo in respect of his duty and conduct in service. The petitioner understands that there is nothing on record to doubt sincerity and integrity of the petitioner. In any case of the matter, even if the Respondent-authority has taken decision on the basis of any charge of misconduct or negligence, impugned action of the Respondent authority to terminate the services of the petitioner by way of short cut is not permitted.

- (E) The petitioner most respectfully submits that since no notice of termination is served upon the petitioner nor a sum equivalent to notice pay is offered to the petitioner simultaneously with the impugned order, the impugned order is bad in law and it requires to be quashed and set aside by this Honourable Tribunal.
- (F) The petitioner submits that there are several other persons holding the post of technician who have joined the duty ~~xxx~~ subsequent to the petitioner and have also not assigned with quasi-permanent status are kept in service. Whereas the services of the petitioner ~~and~~ are sought to be terminated without any reasons. The petitioner therefore submits that impugned action and decision of the respondent-authority is violative of Article 14 and 16 of the Constitution of India and it requires to be quashed and set aside by this Honourable Tribunal.
- (G) The petitioner submits that the impugned termination order is amounting to penalty to the petitioner and before taking impugned decision and passing the impugned order no show cause notice has been issued to the petitioner nor opportunity to defend his case has been given to the petitioner. The petitioner further submits that even in the impugned order no reasons whatsoever have been assigned by the Respondent-authority. Hence the petitioner is also deprived from challenging the decision by substituted and substituting the legal and valid grounds which may be available to him in the appellate

forum or before Court of law. The petitioner therefore submit that the impugned decision of the Respondent authorities ultra vires to principles of natural justice and therefore it requires to be quashed and set aside by this Honourable Tribunal.

- (H) The petitioner has previously filed O.A.No.255 of 1990 in which after hearing the parties the Order was passed on 25.6.1990 ~~with a direction~~ⁱⁿ the Respondent No.1 to disposed of the Representation of the petitioner within 2 months from the date of receipt of the order. Till today it was not been decided by the Respondent No.1. Hence the petitioner has no other alternative and efficacious remedy except to file this Application.

The petitioner craves leave to add to, amend, alter and/or substitute any of the above grounds as and when necessary to do so.

7. Reliefs sought :

P R A Y E R

On the grounds urged above and those which may be urged at the time of hearing of this Application, the petitioner most respectfully prays that -

(A) YOUR LORDSHIPS be pleased to ~~quashed~~, and set aside the termination order dated 19.1.1990 issued by the Respondent-No.2, to this Application and further be pleased to direct the Respondents their servants and/or agents, subordinate officers to re-instate the petitioner to his original post with full back wages, continuity of seniority and all other consequential benefits to the petitioner.

(B) YOUR LORDSHIPS be pleased to grant such other and further final and/or interim/ad-interim relief to the petitioner as may be deemed fit and proper in the interest of justice.

8. The petitioner most respectfully submits that the impugned termination order is ex-facie, illegal, un-constitutional, without jurisdiction, without authority of law, null and void and there is strong prima facie case in favour of the petitioner. The petitioner submits that the above petition is likely to be admitted and ultimately allowed by this Honourable Tribunal. The applicant submit that the termination order is served upon him and it has come into force. It is true that if the petitioner is ultimately succeed in the petition he will get all back wages. However, because of the termination order being in force the petitioner will not get single paise to feed his family. The petitioner is now become over age in service and he will not get

any job. Hence, the petitioner's family has been put to an end of starvation and the petitioner will be unable to fulfilling the necessity of life to his children and petitioner will be unable to provide proper education to them. The petitioner therefore submits that balance of convenience is lies in his favour and irreparable injury will be caused to the petitioner if interim relief, as prayed for is not granted.

PRAYER FOR INTERIM RELIEF

(A) pending admission, hearing and final disposal of this Application, the Honourable Tribunal may be pleased to direct the Respondents, their agents, servants and/or subordinate officers to suspend the further implementation of impugned termination order and further direct them to re-instate the petitioner on his original post and give him regular salary.

9. The petitioner submits that the petitioner has no other adequate efficacious alternative remedy against the substantial injury being inflicted and sought to be inflicted upon the petitioner except to approach this Honourable Tribunal by way of this humble application to remedy his legitimate grievances.

13
:13;

10. Statement :

The petitioner further declares that the petitioner has not filed any other application, petition and/or any appeal on the subject-matter of this Application, before this Honourable Tribunal or before any other Tribunal or Court or before the Honourable Supreme Court of India.

11. No. of Postal Order : 01-875452

Name of the post office. : Cruz, High Court Post Office
Ahmedabad.

Date of postal order : 18-10-91

Postal order for amount of Rs. 50/-.

AND FOR THIS ACT OF KINDNESS AND JUSTICE, THE
PETITIONER, AS IN DUTY BOUND, SHALL EVER PRAY.

Place : _____

Dated : LA / 10 / 1991.

S. D. Talati

Advocate for the
petitioner.

24

: 14 :

A F F I D A V I T

I, Isaq Ibrahim Patel, petitioner herein, do hereby on solemnly affirmation state that what is stated hereinabove is true to the best of my knowledge, information and belief and I believe the same to be true.

Solmenly affirmed at Amreli on this 18th day of OCTOBER, 1991.

Identified by me
S.D. Talati
Advocate

S.D. Talati
18-10-91



Serial No... 4853191 ...19
Book No... 111 ...
Page No... 98 ...
Date... 18-10-91 ...

V. J. Talati
Notary

SOLEMNLY AFFIRMED
BEFORE ME

V. J. Talati
NOTARY

S.D. Talati
Adv.

Filed by Mr. S. D. Talati
Learned Advocate for Petitioners
with second set of 2 spares
copies, copy set not served to
other side

Di. 22/10 A.D. Registrar C.A.T. (1)
A. Bad Bench

Bharatiya Dak Tar Vibhag
Office of the Assistant Engineer I/C., C.T.T.C.,
Ahmedabad 380 016.

MEMO No. C-2/Tech./64/

Dated at Ahmedabad the 22nd-
Oct., 1983.

On successful completion of Nine months' theoretical Training of Technicians (Telegraphs), the following Technicians ~~the following Technicians~~ Trainees of Batch No.64 are hereby struck off the strength of the Training Centre with effect from Afternoon on 23.10.83 with orders to report for practical training for a further period of three months to the offices shown against each, for their further practical training.

Sl. No.	Name of Trainee.	Parent Dn.	Posted for practical training/Office.
1.	Shri K.A. Suthar.	Hitmatnagar Dn.	A.E., RROC, Ahmedabad.
2.	" P.K. Goswami.	-do-	-do-
3.	" K.S. Jansari	-do-	-do-
4.	" S.M. Ganatra.	Bhuj Dn.	J.E., RROC, Rajkot.
5.	" A.B. Shrimali.	-do-	-do-
6.	" D.P. Upadhyay.	-do-	-do-
7.	" A.M. Trivedi	Rajkot Dist.	-do-
8.	" A.C. Shah.	Baroda Dist.	A.E., RROC, Ahmedabad.
9.	" D.G. Shah	-do-	-do-
10.	" G.M. Patel.	Bharuch Dn.	-do-
11.	" I.I. Patel.	-do-	-do-
12.	" A.C. Patel.	Surat (T) Dn.	-do-
13.	" M.G. Shaikh.	-do-	-do-
14.	" R.P. Kantasariya	Rajkot Dist.	J.E. RROC, Rajkot.
15.	" M.H. Papat	Anfeli Dn.	-do-
16.	" S.G. Joshi.	Rajkot (T) Dn.	-do-
17.	" G.R. Pandya	Anand Dn.	A.E., RROC, Ahmedabad.
18.	" S.C. Patel.	Baroda (T) Dn.	-do-
19.	" A.R. Patel.	-do-	-do-
20.	" Y.A. Tasia.	-do-	-do-
21.	" Shivam.	Junagadh Dn.	J.E. RROC, Rajkot. Near Girnar Talkies, Rajkot.

sd/-

(P.A. Tewani)
Assistant Engineer I/C.
C.T.T.C., Ahmedabad-16.

..

*True and
Signed*

INDIAN POST AND TELEGRAPHS DEPARTMENT

OFFICE of the Assistant Engineer
R.R.O.C. (TPs),
"Seva Sadan", Bhadra,
AHMEDABAD 380 001.

MEMO No.E-2/II/Training/Batch No.64/83-84/231 dtd.at Ahmedabad
the 23/1/1984.

On successful completion of three months' practical training from 24.10.83 to 23.1.84, the following technical trainees of the batch No.64, are hereby struck off from the strength of this centre, w.e.f. 23.1.84 after-noon, with instructions to report as mentioned against each trainee :-

Sr. No.	Name of trainee.	Parent Dn/ Dist.	Concerned D.E.T's reference.	Station of posting.
1.	2.	3.	4.	5.
1.	Shri A.C.Shah.	Baroda Dist.	-	Baroda-Dist.
2.	" D.G. Shah.	"	-	"
3.	" A.R. Patel.	Baroda (T)Dn.	Phonic instructions, no vacancy at present in his DN.	To wait for further orders.
4.	" S.C. Patel.	"		
5.	" Y.A. Tasia.	"		
6.	" K.S.Suthar.	HMR "		
7.	" K.S.Jansari.	" "	-DO-	"
8.	" P.K.Goswami.	" "	"	"
9.	" G.M. Patel.	Breach "	E 21/Tech/138, dtd.16.1.84.	Town Exge, AKS.S.D.O.1
10.	" I.I. Patel.	" "	"	BCH, D.T.O
11.	" A.C.Patel.	Surat "	-	Surat.
12.	" N.G. Shaikh.	" "	-	-
13.	" M.M. Popat.	Anreli "	E 62/A/1 dtd. 20.1.84.	S.D.O.P., VRL.,
14.	" A.B.Shrimali.	Bhuj "	E 34/Tech/167dt. 21.1.84.	SDOT:GDM SDOT:Bhuj SDOP: "
15.	" D.P.Upadhyay.	" "	"	Rajkot Dist.
16.	" B.M.Ganatra.	" "	-"	
17.	" A.M.Trivedi.	Rajkot Dist.	-	
18.	" R.F. Pantosariya.	" "	-	Rajkot Dist
19.	" S.G.Joshi.	Rajkot(T) DN.	E 62/A/105, dtd. 21.1.84.	Upleta Exge as IM AT
20.	" Param Shivam.	Junagadh DN.	E 87/D/114, dtd. 20.1.84.	Keshad Exge as no vacancy in Tech's cadre.

** No.15 : posted at Kutch Mandvi under SDOT:Bhuj
Shri G.R.Pandya, Tech.Trainee of Anand(T)Dn.remained absent from training w.e.f. 8.11.83 f/n, so his trg. remains incomplete. The D.E.T./Anand had been informed this fact vide this office letter No.E-2/Trg-Batch 64/83-84/220 dtd. 21.12.83.

Sd/- A.M. KACHHIA
Asstt.Engineer, R.R.O.C.(T/Ps);
Ahmedabad 380 001.

Copy for information and necessary action to :-

x x x x x x
x x x x x x

Traveller

DEPARTMENT OF TELECOMMUNICATIONS

Office of the Telecom District Engineer, Bharuch
Bharuch Division, 60 Patel Society, Bharuch.

Mem No.C-516/II/26

Dated at Bharuch the 19.1.1990.

Order of termination of service issued under the proviso to sub-Rule 5 of the Central Civil services (Temporary Service) Rules, 1965.

In pursuance of the proviso to Sub-Rule (1) of Rule 5 of the Central Civil services (Temporary Service) Rules, 1965. I, Rajenshkumar, Telecom District Engineer, Bharuch Division, Bharuch hereby terminate forthwith the services of Shri I.I. Patel, Technician, Bharuch, and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service, or, as the case may be, for the period by which such notice falls short of one month.

Station : Bharuch.

Date : 19.1.90.

sd/-

Telecom District Engineer.
Bharuch- 392 002.

Copy to :

S.D.O. Phones, Bharuch
Salary/S.B. section
The Official.

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*Mineer
SPR
a*

From :

I.I. PATEL,
Technician,
Bharuch TPN Exchange
BHARUCH 392 001.

Dated 26-2-1990.

To:

The Member (Admin/P),
Ministry of Telecommunications-
Department of Telecommunication
Sanchar Bhavan,
NEW DELHI 110 001.

THROUGH: PROPER CHANNEL OR
TO WHOM IT MAY CONCERNED

Honourable XX SIR :

The humble petitioner of the petitioner above named -

Most respectfully prays that :-

1. The petitioner is the Technician in Telephone Exchange at BHARUCH under the control of T.D.E. Bharuch working since 1984 and now has been terminated from service under Rule 5(1) of C.C.S. (Temporary Service) Rule 1965 w.e.f. 19.1.90 as a result of abrupt order issued by T.D.E. Bharuch under its Memo No.G-516/II/26 dated 19.1.90.
2. Being aggrieved of the order issued by worthy T.D.E., Bharuch as above, I, the humble petitioner crave your kind leave to submit this petition for sympathetic consideration on the following main amongst the other grounds without prejudice to one another.
3. My this humble petition is submitted under the provision exist in D.G. P & T New Delhi No.261/16/63-STB/Disc. dated 8.8.66 and further modification therein to review the order passed by T.D.E. Bharuch in violative of different rules and guide lines as explained in length hereunder.
4. Sir, now may I take courage to submit that I was initially recruited as technician and posted at Bharuch vide Memo No.E-2/II/Trg. from D E T Bharuch, after having been examined in persons with all requirements as per terms and conditions. I did not receive any adverse entry or any notice regarding my un-satisfactory work till my service is terminated. Since I put in nearly 6 years service I could have been issued Certificate of Quasy Permanancy immediately after Completion of my 3 years service as required in D.G.'s New Delhi letter No.31/1/67-SPB.II dated 12.7.67, but for inherent lacuna on the part of appointing authority

for non observance of D.G.'s instruction ibid, I am made scape goat even after I have been considered as deemed to have made Quasi Permanent after completion of 3 years of C.C.S. (Temporary service) Rules.

5. Further I have not been even considered unfit of quasi permanency during 3 years of service of thereafter nor I was kept informed if it was. This clearly leads to believe that the authority did not observe provision contained in para-4-2 of O.M.No. 18011/1/86/Est(D) dated 28.3.88 from Ministry of Personnel Public Grievance and Pensions (copy enclosed) in as much as instruction contained in D.G.'s letter No.21/1/67-SPA.II dated 12.7.67 (copy enclosed). This irregular action of my respected T.D.E., Sharuch has thus made me deprived of legitimate constitutional rights under article 311 (2) and bonafide of the authority in making the impugned order is warranted in law to be reviewed.

Ann.'A'

Ann.'B'

6. Your Honour, here it is interesting and remarkable as to how far my worthy T.D.E. Sharuch has over ruled the latest modification in the cited Rule 5(1) of C.C.S. (Temporary services) Rules, 1965. As per latest orders issued regarding simplification of confirmation procedure and the provision relating to quasi-permanency in the C.C.S. (Temporary Service) Rules, 1965, the procedure prescribed and adopted in Rule 5(1) for declaring a person as quasi-permanent ceases to exist and it has now deleted since last March, 1988. (A copy of this orders enclosed-Ann.'A'). Thus the provision of rule 5(1) of C. C.S. (Temporary Service) Rules, 1965 resorted by T.D.E. Sharuch in the impugned order has no validity and it is bad in law. In fact the Rule 5(1) cited in impugned order by T.D.E. Sharuch has already amended since 1988. Thus the order of termination of service is ultra-vires.

7. The humble submission of the petitioner is that the order of termination of service issued by respected T.D.E. Sharuch is contrary to the instructions contained in D.G. P & T No.163/1/63-SPA.I, dated 16.2.65.

8. I, the petitioner further urge your kind honour that I have never been involved in any case nor was declared unsuitable for the post. However my worthy T.D.E., Bharuch for the reason best known to him straight way pleased to remove me from service without observing prescribed Rules and instructions contained in pre-para above, which has no validity and had in laws, is as much as violative of Article 311 of Constitution. To my mind it appears that the authority has virtually aired in immobility leaving the humble petitioner in almost "beguiled expectation", about my being regularise in the department. Now the question has arisened is where the humble petitioner can go for alternative employment when he has crossed the prescribed age limit as prescribed at this juncture.
9. sir, it is only your kind honour who can well judge considering the fact that the authority was appointed the petitioner is not itself without blame and allow the matter to drift for so long, leaving the petitioner in a quandary.
10. The petitioner therefore craves leave to submit that the authority has to arrive at conclusion of the reasonable prognosis of the circumstances of the case as to whether the fault of irregular termination of service of your peer petitioner is attributed to me or to the authority concerned.
11. In the end my humble submission and prayer in short is that I have been adversely affected by the impugned order of the T.D.E., Bharuch.
- (ii) that it is abundantly manifest that the ruling relied upon in my case by my worthy T.D.E., Bharuch have no application in this case and the impugned order may kindly be nullified.
- (iii) The impugned order of termination of service is not in conformity to the prescribed Rules and instructions cited in pre-para above and as such it is not sustainable and deserved to be quashed.

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PRAYER :-

12. Your kind petitioner may kindly be held as resorted to duty and re-instated.

(ii) The order of T.D.E., Bharuch may kindly be quashed.

(iii) The period of break in service may kindly be allowed as on duty for all purpose.

13. In the end ~~petitioner~~ may I take your permission to make it clear that the intention of mine is not to offend the feeling of any authority, but to get justice with mercy in your pious hand.

Yours faithfully,

Sd/-

(I.I. PATEL).

...

Copy with respect to :-

Member ()
Ministry of Telecommunication
Department of Telecommunication in advance by post.

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T. N. S. R.

A/5 22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD
AHMEDABAD BENCH

ORIGINAL APPLICATION NO. 255 of 1990

Shri Isaq Ibrahim Patel

....Petitioner

v/s.

Union of India and Ors.

....Respondents.

CORAM: HON'BLE MR.S.K. JAIN,
Judicial Member

HON'BLE MR. M.M. SINGH,
Administrative Member.

O R D E R

Date : 25-6-1990

PER : HON'BLE MR.S.K. JAIN, Judicial Member :

"Shri Isaq Ibrahim Patel, the applicant, has claimed that he was selected by the Staff Selection Commission for the post of Technician and he having been successful in the theoretical and practical training in the year 1984, he was appointed and posted as Technician against the clear vacancy but his services were terminated illegally by termination order dated 11.1.1990 (Annex.A-3) against which he made representation dt.26.2.1990 (Ann.A-4), which has not been disposed of.

2. The learned counsel for the applicant submits that respondent No.1 be directed to dispose of the representation on merits.

3. In the circumstances, we direct respondent No.1 to dispose the representation (Annexure A-4) within two months from the receipt of the copy of this order by recording a speaking order on merits. Copy of this order, alongwith the copy of the representation, be sent to respondent No.1 within 10 days. Respondent No.1 is further directed to furnish a copy of the order passed on the representation to the applicant within 10 days of the order having been passed and it will be open to the applicant

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: 2 :

if approved, to bring a fresh application for seeking necessary relief from the Tribunal. Accordingly O.A. stands disposed.

Sd/-
(M M SINGH)
Administrative Member.

Sd/-
(S K JAIN)
Judicial Member.

.....

Final order
SKJ
R