

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 16/92
T.A.NO.

DATE OF DECISION 05.05.1998

Shri R.R. Sipai **Petitioner**

Mr. K.C. Bhatt **Advocate for the Petitioner [s]**
Versus

Union of India and Others **Respondent**

Mrs. P. Safaya **Advocate for the Respondent [s]**

CORAM

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

The Hon'ble 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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(2) N.D.

DR

(4)

Rajabhai Rajabhai Sipai,
Ex. E.D.C.A./D.A.,
Zazam B.O.
(Varahi) 385360
(Banaskantha Div.)

... Applicant

(Advocate: Mr. K.C. Bhatt)

VERSUS

1. Union of India through
The Director-General,
Department of Posts,
Ministry of Communication,
Parliament Street,
New Delhi - 110 001.
2. The Chief Postmaster-General,
Gujarat Circle,
Ahmedabad - 380 001.
3. The Supdt. of Post offices,
Banaskantha Division,
Palanpur - 385 002.
4. The Sub-Divisional Inspector of
Post Offices,
Radhanpur Sub Division,
Radhanpur - 385 340.

... Respondents

(Advocate: Mrs. P. Safaya)

ORAL ORDER

O.A./16/92

Dated: 05.05.1998

Per: Hon'ble Mr. P.C. Kannan, Member (J)

This application under Section 19 of the Central Administrative Tribunals Act has been filed by Shri R.R. Sipai against the Chief Post Master General, Gujarat Circle and others challenging the oral termination of services of the applicant as communicated to him by the EDBPM Zazam, Banaskantha Division on 28.9.91 (Annexure A-1). The applicant was appointed as Extra Departmental Mail Carrier and Delivery Agent (EDCA/DA) zazam B.O. (Banaskantha Division)

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with effect from 08.08.89. The applicant was continuously working as EDC/DA, Zazam up to 28.9.91, till the date of termination of his service. On 28.9.91, the EDBPM informed him that he was discharged from service by the orders from Inspector of Post Offices, Radhanpur. The applicant had served the Department for over 24 months. The applicant has stated that he is protected under the provisions of Section 25F of Industrial Disputes Act, 1947 as he completed more than 240 days in a year and that the termination order is liable to be quashed as the Respondents has not followed the procedure prescribed under the ID Act.

2. The relief sought for by the applicant reads as follows:-

- (1) The impugned order no. nil dated 28.9.91 of the BPM Zazam be quashed and set aside and the respondent be directed to re-instate the applicant in service with all consequential benefits of backwages as in job from 28.9.91, the date of his termination of services.
- (2) The respondent authority be directed to regularise the services of the applicant from 8.8.1989 as he is continuously working on vacant post.
- (3) The respondent authority be directed to pay the cost of this application as the applicant is a very low paid servant and the termination of services without any fault of the official, with malafide intention of respondent no.

4.

3. The respondents have filed their reply. It was admitted by the respondents that the applicant was working as

DR

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EDCA/DA from 8.8.89 to 28.9.91 as claimed by the applicant. However, it was stated that the applicant could not be regularised as ~~EDCA/DA~~ ^{pay} as he did not fulfil the educational qualifications and also that he was not sponsored by the Employment Exchange. In the circumstances, the services of the applicant was discharged by the oral order. The respondents also produced copy of the relevant instructions in this regard (Annexure R-2) and also produced a copy of the school certificate produced by the applicant (Annexure R-3). As the applicant was not appointed on a regular basis, the respondents contented that his services could be terminated at any time without notice.

4. We have heard the learned advocates for the parties and also perused the records. There is no dispute about the fact that the applicant was working as EDCA and also completed more than 240 days of service. The applicant is therefore entitled to protection under Section 25F of the Industrial Disputes Act. The main thrust of the respondents is that the applicant did not fulfil the eligibility conditions for being appointed as EDCA/DA and therefore his services were terminated. The question arises is whether Section 25F of the Industrial Disputes Act is applicable to the facts of the case and whether the respondents followed the procedure laid down under Section 25F of the said Act before the termination of the services of the applicant. In terms of the provisions of the Section 25F of the Act whenever a workman who has completed 240 days in a calendar year is required to be retrenched, one month's notice should be served or one month's pay ~~in~~ lieu of thereof shall be paid. Besides, the

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(X)

compensation on retrenchment will have to be given. In this case, the applicant who has completed more than 240 days of service has neither been served with any notice of one month nor was given salary for one month in lieu of thereof and no compensation on retrenchment at the prescribed rate was tendered. The Respondents have not followed/complied with the provisions of the Industrial Disputes Act and the rules made thereunder. The provisions of Section 25F have therefore been violated and in the circumstances, the oral termination order is liable to be quashed.

5. In the facts and circumstances, we come to the conclusion that the verbal order of termination of services of the applicant was illegal and is quashed. We direct the respondents to reinstate the applicant against any available vacancies and if not available, against the next vacancy which may arise. The applicant shall also be entitled to 50% of the backwages. The applicant shall take action within a period of three months from the date of receipt of a copy of the order. The application is disposed of accordingly.

NO costs.

P. C. Kannan
(P.C. Kannan)
Member (J)

V. Radhakrishnan
(V. Radhakrishnan)
Member (A)

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DATE

Office Report

O R D E R

8.9.98

The Applicant is permitted to remove the office objection on or before 14/9/98. Adjourned to 14.9.98.

LJha(Laxman Jha)
Member (J)

nkk

14.9.98

Mr. Ravani files appearance on behalf of the respondents in place of Mrs. Safaya.

Objections are waived and regular number may be given to the M.A.

Mr. Bhatt files reply to the M.A. Time for implementation of the judgment is extended upto 15.10.98.

M.A. stands disposed of accordingly.

PK
(P.C. KANNAN)
MEMBER (J)

*SSN