

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO.

355 of 1992.

~~**O.A. NO.**~~DATE OF DECISION 21/4/1995.Shri I.I.Anshari PetitionerShri P.H.Pathak Advocate for the Petitioner (s)

Versus

Union of India and ors. RespondentShri Akil Kureshi Advocate for the Respondent (s)**CORAM**

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

The Hon'ble ~~Mr.~~ Dr.R.K.Saxena : 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 ?
- 47

: 2 :

Shri I.I.Anshari
Laxmipara Street No.5,
Surendranagar.

....Applicant.

(Advocate : Mr.P.H.Pathak)

Versus

1. Union of India,
Notice to be served through
General Manager,
Telecommunication Department
Nr.Gujarat High Court,
Ahmedabad.
2. Sub Divisional Officer (Phone),
Telecommunication Dept.,
Dhangadhra.
3. Divisional Engineer of Telecom.
Telecommunication Dept.,
Surendranagar.

...Respondents.

(Advocate : Mr.Akil Kureshi)

J U D G M E N T

O.A.NO. 355 OF 1992.

Date: 21/4/1995.

Per : Hon'ble Mr.V.Radhakrishnan : Member (A)

Heard Mr.P.H.Pathak and Mr.Akil Kureshi learned advocates for the applicant and the respondents respectively.

2. The applicant joined the Respondents' Department at Surendranagar on 1.1.1987 and was continuously working upto 14.10.1988. When his services were orally terminated, the applicant was originally appointed by calling names from Employment Exchange. He had also completed about 640 days as casual labourer. The applicant approached the Department for re-engagement but he was not re-engaged.

The contention of the applicant is that the respondent-department is an Industry and as the applicant was discharged from service without notice or retrenchment compensation as provided in Section 25-F of Industrial Disputes Act, 1947, his termination is illegal and void. Hence, the applicant has prayed for the following reliefs:

- a) That the Hon'ble Tribunal be pleased to declare the impugned verbal termination of the applicant w.e.f. 14/10/88 as illegal, invalid and inoperative in law and be pleased to quash and set it aside and further direct the respondents to reinstate the applicant in continuity of service with full back wages.
- b) Be pleased to direct the respondents to regularise the services of the applicant in light of the judgment of the Hon'ble Supreme Court of India in the case of daily wager employees of the respdt. department and to any all the benefits of the principles of equal pay for equal work from initial date of appointment with 12% interest.
- c) Be pleased to hold that the action of the respondent to continue the applicant as a daily wager employee for a long period amounts to unfair labour practice.
- d) Any other relief to which this Hon'ble Tribunal deems fit and proper in the interest of justice together with costs.

3. The respondents have filed the reply. They have stated that the applicant was discharged from service as there was no work to be carried out by the department. They have also questioned the delay in filing the application. However, they have admitted that the applicant was employed as casual labourer from December, 1986 to 13.10.1988. They have stated that according to the policy of the department, services of the labourers engaged after 30.3.1985, for specified work shall be dispensed with after completion of that particular work. They have also denied that the Respondent Department is an Industry and hence provisions of Industrial Disputes Act does not apply. Accordingly, they have prayed for rejection of the application.

4. During the arguments Mr.P.H.Pathak learned advocate for the applicant stated that the applicant has produced copies of statement showing days of work under the respondents. It clearly shows that the applicant has worked for more than 240 days prior to the termination. More over it is now well established that the Respondent Department has been recognised as an Industry and hence provisions of Industrial Disputes Act applies. As the applicant was neither given retrenchment compensation nor one month's notice as required under Section 25 F of the Industrial Disputes Act, 1947, his termination was illegal and void. Mr.Akil Kureshi learned advocate for the respondents argued that the applicant had been engaged for doing specified item of work and once the work was completed his services were no longer required and hence, he was retrenched and it was quite in order.

5. There is no dispute regarding the fact that the applicant had worked for more than 240 days or more prior to his termination i.e. 14.10.1988. Since, the applicant had worked for more than 240 days, during the relevant period his employment could not have been terminated validly except by giving him one month's notice or notice pay in lieu thereof and by paying him retrenchment compensation as required under Section 25 F of the Industrial Disputes Act, 1947. There is no dispute about the fact that the applicant's employment had been terminated verbally i.e., without giving any notice and without paying him any retrenchment compensation as required by Section 25 F of the Industrial Disputes Act.

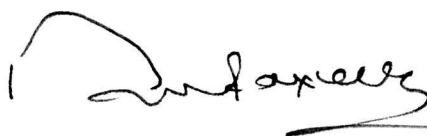
6. In view of the above there is no alternative but to hold that the termination of the employment of the applicant was void, ab initio being violative of the statutory provisions of the Industrial Disputes Act. The Respondents are directed to reinstate the applicant within six weeks from the date of receipt of this copy of the judgment. The only question is as to what consequential benefits should be awarded to the applicant on his reinstatement. The applicant's services were terminated in 1988 and he approached the Tribunal for the first time on 17.8.1992, by filing this O.A. and there is no question of his being awarded any back wages for the period prior upto 17.8.1992. However, he is awarded back wages for the period subsequent to 17.8.1992, after

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deducting any amount he might have earned elsewhere during the period. He shall also been given continuity of the service with effect from the initial date of appointment, but only for the purpose of grant of temporary status and terminal benefits. The applicant is also entitled to all normal benefits flowing from his regularisation. It is made clear that this grant of continuity of service to the applicant will be without affecting the seniority and promotion, if any, of any other casual employees who might already have been engaged or re-engaged since the termination of the employment of the applicant.

O.A. stands disposed of accordingly.

No order as to costs.


(Dr.R.K.Saxena)
Member(J)



(V.Radhakrishnan)
Member(A)

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Office Report

ORDER

In so far as the reinstatement is concerned, it shall be done without any further delay, but in so far as the backwages is concerned, extension of time is granted for 3 months from 7-7-95, pending decision of SLP from Supreme Court. M.A. disposed of.


(V. Radhakrishnan)
Member(A)


9-95. Adjourned to 9-10-1995, at the request of Mrs. Safaya, to enable her to ^{understand} know what is the status of S.L.P.


(K. Ramamoorthy)
Member(A)

9.10.95 MA/627/95

Time is extended up to 31.10.95.

MA/627/95 stands disposed of accordingly.


(K. Ramamoorthy)
Member(A)

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Recd
Amal
19.2.96

5.6/96

Central Administrative Tribunal
Ahmedabad Bench.
Inward No. 2049
Date 19.02.96

Section-IX

D.No. 9/96/Sec.IX
Supreme Court of India,
New Delhi.

Dated:- 7/2/96

From:-

Section Officer,
Supreme Court of India,
New Delhi.

To:-

The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench,
Ahmedabad.

PETITION FOR SPECIAL LEAVE TO APPEAL(CIVIL)NO.2494 of 1996
(Petition under Article 136 of the Constitution of India,
from the Judgment and Order dated 21/4/95
of the Central Administrative Tribunal, Ahmedabad Bench
in O.A.No.355/92)

Union of India & Ors.

..Petitioner(s)

-VERSUS-

I.I.Anshari

..Respondent(s)

Sir,

I am directed to inform you that the Petition
above-mentioned filed in the Supreme Court was listed
before the Court on 19/1/96 when the
Court was pleased to pass the following Order:-

"There is xx delay of 94 days in filing of the special
leave petition for which no satisfactory explanation
has been offered. The application for condonation of
delay is, therefore, dismissed. Consequently, the
special leave petition is also dismissed on the
ground of delay."

For personal Pleaser

Yours faithfully,

① Honble Vice Chairman

② Honble Mr. V. Radhakrishnan, member

③ Honble Mr. K. Ramamoorthy, member

Section Officer

Date	Office Report	ORDER
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14.7.95

In so far as the reinstatement is concerned, it shall be done without any further delay, but in so far as the backwages is concerned, extension of time is granted for 3 months from 7-7-95, pending decision of SLP from Supreme Court. M.A. disposed of.

(V.Radhakrishnan)
Member(A)

25-9-95.

Adjourned to 9-10-1995, at the request of Mrs.Safaya, to enable her to ^{indicate} know what is the status of S.L.P.

(K.Ramamoorthy)
Member(A)

9.10.95

MA/627/95

Time is extended up to 31.10.95.

MA/627/95 stands disposed of accordingly.

(K.Ramamoorthy)
Member(A)

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