

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 420/92 and OA/584/93

T.A. NO.

DATE OF DECISION 21.7.1995

Additional Postmaster General **Petitioner**

Mr. Akil Kureshi **Advocate for the Petitioner (s)**

Versus

Shravankumar B. Sarada **Respondent**

Mr. K.K. Shah **Advocate for the Respondent (s)**

CORAM

The Hon'ble Mr. N.B. Patel, Vice Chairman

The Hon'ble Mr. K. Ramamoorthy, Member (A)

COMMON 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 ?

No

OA/420/92

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Additional Post Master General,
Gujarat Circle,
Ashram Road,
Ahmedabad

.. Applicant

(Advocate : Mr. Akil Kureshi)

Versus

Shri Shravankumar Bharatkumar Sarada,
Vatva Syndicate,
Block No.13, Room No.70,
G.I.D.C., Vatva,
Ahmedabad

.. Respondents

(Advocate : Mr. K.K. Shah)

OA/584/93

Shravankumar Bharatkumar Sarada,
Working as Dresser in the
P & T Dispensary,
Ahmedabad

.. Applicant

(Advocate : Mr. K.K. Shah)

Versus

The Chief Postmaster General,
Gujarat Circle,
Ahmedabad 380 001

.. Respondents

Date : 21.7.1995

COMMON JUDGMENT (Oral)

Per : Hon'ble Mr. N.B. Patel, Vice Chairman

Both these OAs arise from the award of
Industrial Tribunal (Central), Ahmedabad in
Refence (ITC) No.46/89 and they will be disposed
of by this common judgment.

contd.. P3

2. The Reference in question was regarding the industrial dispute raised by the applicant in OA/584/93, namely, Shri Shravankumar Bharatkumar Sarada in respect of the oral termination of his employment with effect from 14.5.1988. The Industrial Tribunal has declared the termination of the employment of Shri Shravankumar B. Sarada as invalid on the ground that it was in contravention of the provision of Section 25F of the Industrial Disputes Act. The Tribunal has ordered reinstatement of the Workman Shri Shravankumar B. Sarada with 60% backwages. OA No.584/93 is filed by the Workman Shri Shravankumar B. Sarada challenging the award of only 60% of backwages to him. He claims that he should have been awarded full backwages. OA No.420/92 is filed by the department challenging the award striking down the termination of the applicant and also challenging the award of backwages to the extent of 60% to him. In the present judgment, the workman will be referred to as the applicant and the department will be referred to as the respondent.

3. There is no dispute about the fact that the applicant was engaged as a daily rated casual labourer (as a Dresser in the P & T Dispensary run by the Postal department) and his employment was terminated with effect from 14.5.1988 or 7.5.1988. There is no dispute about the fact that this termination was oral termination. The applicant's case was that he had completed 240 days or more of work during the one year preceding the date of the termination and, therefore, his

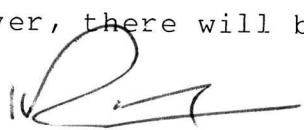
termination could have been brought about only by one month's notice or one month's pay in lieu of notice and by payment of retrenchment compensation to him as envisaged by Section 25F of the Industrial Disputes Act. It appears that the respondent department contested the applicability of the provision of Section 25F of Industrial Disputes Act to the facts of the case by contending that the applicant had not completed 240 days during the year preceding the date of his termination and further stating that the applicant was not in the regular employment of the department.

4. The Tribunal has struck down the termination order with a clear finding that the applicant had completed 240 days of work during the relevant period and, therefore, he was entitled to the benefit of section 25F of the Industrial Disputes Act and since no notice was given to him nor any wages were paid to him - in lieu of notice nor was any compensation paid to him, the termination was void and ab initio. In OA/420/92, the department has challenged this finding also. However, the judgment of the Tribunal shows that the Tribunal had considered exhibits 17, 18 and 19 before it, namely, the muster rolls and its finding that the applicant had completed 240 days or more days of work during the relevant period is based on the said documents. Since the Tribunal's finding on this point is based on this documentary evidence and since it is not shown to us that

finding was perverse, there is no question of interfering ^{with} the said finding in this petition under Article 227 of the Constitution of India.

5. In his OA No.584/93 the applicant has challenged the dismissal of his claim for backwages to the extent of 40% and ⁱⁿ the cross OA filed by the department, it is contended that the applicant should not have been awarded even 60% of backwages. Even on this point, we see no case to interfere with the judgment of the Tribunal in exercise of powers under Article 227 of the Constitution of India considering the fact that the Tribunal's award entitling the applicant to the extent of 40% of backwages is based on its finding that the applicant was not working on all the days of a month before his termination. We also see no reason to interfere with the judgment as prayed for by the department, because we find that the award of backwages to the applicant to ^{be awarded as} the extent of 60% cannot be granted perverse, ^{and} unreasonable and unjust.

6. In the result, both the OAs are dismissed. However, there will be no order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman