

13

T.A. No.

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 ? ✕

The Assistant Engineer,
Cable Construction,
Ahmedabad.

.... Applicant.

(Advocate: Mr. Akil Kureshi)

Versus.

Nagardas Muljibhai Solanki,
29-P Kastia Chawl,
Rajpur, Ahmedabad-

.... Respondent.

ORAL ORDER

O.A.No. 210/1993

Date: 3-5-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. Akil Kureshi, learned advocate for
the applicant.

2. This application under section 19 of the
Administrative Tribunals Act, 1985, is filed by the
Assistant Engineer, Cable Construction, Ahmedabad,
who was the party of the first part before the Central
Industrial Tribunal, Ahmedabad in Reference (ITC)
58/90 decided on 22nd October, 1992. The applicant has
prayed the relief in this application that the award
dated 22nd October, 1992, Annexure A-1 passed by the
Central Industrial Tribunal, Ahmedabad in Reference
(ITC) 58/90 be quashed and set aside.

3. The reference was made to the Central Industrial
Tribunal Ahmedabad by the Ministry of Labour, New Delhi
relating to the question as to whether the termination
of the present respondent workman by the applicant was

respondent was unreasonable and unjust and hence he had been discharged. The second argument advanced on behalf of the applicant was that the respondents had not worked for 240 days in a year prior to his termination and therefore, the question of applicability of Section 25 F of the I.D. Act did not arise and the reference should be dismissed. Apart from the question of applicability of section 25F of I.D. Act and apart from the fact whether the respondent had completed 240 days or not in a year previous to his termination, the main question would be whether the present applicant could terminate the services of the respondent on the ground of unreasonable and unjust conduct of the respondent without giving him the show-cause notice before terminating the services. The principle of natural justice, requires that a party against whom such action is to be taken for termination should be given opportunity of hearing before an / he is to be terminated on the ground of misconduct. It was the duty of the present applicant to give a show-cause notice about alleged termination on the ground of the / misconduct of the respondent. The applicant could not have terminated the services of the respondent by an oral order on the ground that his conduct was unreasonable and unjust. The evidence of the respondent before the Industrial Tribunal remained uncontroverted and the present applicant had not led any evidence before the Tribunal. After hearing learned advocate, we hold

proper and legal and if not what relief the respondent was entitled to the claim. It is not in dispute that the powers which the Central Administrative Tribunal is exercising in such cases are under Article 227 of the Constitution of India. The applicant has therefore to establish as to whether there was illegality committed by the Central Administrative Tribunal in reaching the conclusion or whether there was an illegal procedure adopted by the said Tribunal which resulted in miscarriage of justice to any of the parties or whether the order was perverse.

4. Reading the award of the Central Industrial Tribunal in Reference (ITC) 58/90 we find that the present applicant had terminated the services of the respondent workman by an oral order dated 18th July, 1987¹/₂ and no legal procedure had been observed by the applicant before terminating the services of the applicant. The Central Industrial Tribunal had recorded the statement of the respondent at Exh.8. The respondent has ^{that} ~~stated~~ in his evidence before discharging him, no notice or notice pay or any compensation was given to him nor any show-cause notice was issued to him. It is not in dispute that no departmental enquiry had been held against the respondents before terminating the service. The applicant had not led any oral evidence before the Central Industrial Tribunal. The argument advanced on behalf of the applicant before the Central Industrial Tribunal was that the conduct of the

that the oral order of termination of the present respondent by the applicant was ex-facie illegal. We do not propose to go into the question of applicability of Section 25F of the I.D.Act. In our opinion, the Industrial Tribunal has not committed an error in quashing the oral order of termination of the respondent of termination dated 18th July, 1987 because the said order was against the principle of natural justice and the action of termination was taken without issuing show-cause notice to the respondent. We, therefore, see no reason to interfere in the award which has been passed by the Central Industrial Tribunal, Ahmedabad.

5. The result is that this application deserves to be dismissed summararily. Hence we pass the following order.

ORDER

Application is dismissed summararily with no order as to costs.

M.R. Kolhatkar
(M.R. Kolhatkar)
Member(A)

R.C. Bhatt
(R.C. Bhatt)
Member(J)

vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 210 of 1983.

Transfer Application No. _____ Old W. Pett. 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 : 28/5/83.

Countersigned :

abhalan

Section Officer/Court officer

14/8/83

Signature of the Dealing
Assistant

INDEX SHEET

NAMES OF THE PARTIES Asstt. Engineer, Dhuleddabad,

MR. N. M. Salankar.

[illegible]