

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 223 of 93

~~XXXXXX~~

DATE OF DECISION 28.10.99

Vijay Kumar N. Yadav. Petitioner

Mr. U.M. Shastri Advocate for the Petitioner [s]
Versus

Union of India & Ors. Respondent

Mr. B.N. Doctor 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 ?

Shri. Vijaykumar Naginaprasad Yadav
Khirasara (Ghed)
Tal. Keshod
Dist. Junagadh.

... Applicant

(Advocate : U.M. Shastri)

Versus

1. The Union of India through
The Divisional Eng., (ADMN)
C/o. T.D.M.
Ganda Agad Road,
Junagadh.

2. The Sub-Divisional Officer (T)
S.D.O.T. Office,
Keshod
Dist. Junagadh.

... Respondents.

(Advocate : Mr. B.N. Doctor)

ORAL * ORDER

O.A 223 of 93

Date : 28.10.99

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

Neither the applicant, nor his counsel is present.
Dismissed for default.

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

VR
(V. Radhakrishnan)
Member (A)

Nkk

मीम RE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
XXXXXX 7.4.2000		<p>Mr. Jadav is directed to remove the office objections within a fortnight. Adjourned to 20.4.2000.</p> <p style="text-align: right;"><i>[Signature]</i></p> <p>(A.S. Sanghavi) Member (J)</p>
20.4.2000		<p>Mr.C.P.Jadav for the applicant is absent. It appears that he has not removed the office objection. He is directed to remove the office objection and file separate affidavit of the applicant and serve a copy of same to otherside. Adjourned to 11.5.2000.</p> <p style="text-align: right;"><i>[Signature]</i></p> <p>(A.S.Sanghavi) Member (J)</p>
11.5.2000 As the learned member of the Bench is not available, the matter is adjourned to 27.7.2000 <i>[Signature]</i>		<p>nkk</p>
27.7.2000 418100 As the learned member of the Bench is not available, the matter is adjourned to 20.9.2000 <i>[Signature]</i> 3719 418100 COT		<p>XXXXXX Office objections still not removed. Adjourn Two weeks time is granted for removing office objections. Adjourned to 14.8.2000.</p> <p style="text-align: right;"><i>[Signature]</i></p> <p>(P.C. Kannan) Member (J)</p>

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
5.1.2000		<p>Two weeks time is granted for removing the office objection. Adjourned to 18.2.2000.</p> <p><i>An</i></p> <p>(P.C.Kannan) Member (J)</p> <p>nkk</p>
18.2.2000		<p>Mr.C.P.Jadav submits that he has supplied a copy of MA to Mr.Doctor and will file affidavit. If so, Registry to give regular number to the MAST/723/99. Adjourned to 3.3.2000.</p> <p><i>An</i></p> <p>(P.C.Kannan) Member (J)</p> <p>nkk</p>
3.3.2000		<p>Mr.C.P.Jadav, counsel for the applicant submits that he has removed office objection. If so, Registry may give regular number to MAST/723/99. Adjourned to 7.4.2000.</p> <p><i>An</i></p> <p>(P.C.Kannan) Member (J)</p> <p>nkk</p>

तारीख DATE	कार्यालय टिप्पणी OFFICE REPORT	आदेश ORDER
20.9.2000		<p><u>MAST/723/99</u></p> <p>Objection waived. Registry to give regular number to this MAST.</p> <p>Heard Mr.Jadhav and Mr.Doctor. For the reasons stated, MA is allowed and OA is restored to file. MA stands disposed of.</p> <p>OA is adjourned to 11.10.2000 for final hearing.</p> <p><i>DR</i></p> <p>(P.C.Kannan) Member (J)</p>
11.10.2000		<p>nkk</p> <p>Mr. H Jadav for the applicant has filed a leave note. Adjourned to 15.11.2000.</p> <p><i>eev</i> (G.C. Srivastava) Member (A)</p> <p><i>Ar</i> (A.S. Sanghavi) Member (J)</p>
15.11.2000		<p>Mb</p> <p>Mr. Jadav, for the applicant seeks time to argue the matter saying that he does not not have the papers. Adjourned to 8.12.2000.</p> <p><i>eev</i> (G.C. Srivastava) Member (A)</p> <p><i>A</i> (A.S. Sanghavi) Member (J)</p>
		<p>pkn</p>

तारीख DATE	कार्यालय दिप्पणी OFFICE REPORT	आदेश ORDER
08/12/2000		<p>Mr. C.P.Jadav has filed sick note. Adjourned to 03/01/2001.</p> <p>(<i>G.C.Srivastava</i>) <i>DN</i> Member (A) (P.C.Kannan) Member (J)</p>
03/01/2001		<p>Time being over, adjourned to 12/01/2001</p> <p>(<i>G.C.Srivastava</i>) <i>Ar</i> (A.S.Sanghavi) Member (A) Member (J)</p> <p>Raj/</p>
12/01/2001		<p>At the request of Mr. Jadav adjourned to finally to 09/02/2001.</p> <p>(<i>G.C.Srivastava</i>) <i>DN</i> Member (A) (P.C.Kannan) Member (J)</p> <p>RAJ/</p>
9-2-2001		<p>Division Bench matter. Adjourned to 26-2-2001.</p> <p>(<i>G.C.Srivastava</i>) <i>DN</i> Member (A)</p>
26/02/2001		<p>nkk Division Bench Matter.</p> <p>Adjourned to 13/03/2001.</p> <p>(<i>A.S.Sanghavi</i>) <i>Ar</i> Member (J)</p> <p>CMJ/</p>
13.03.2001		<p>HEARD LEARNED ADVOCATE FOR THE APPLICANT & RESPONDENTS JUDGEMENT RESERVED</p> <p>(<i>G.C.Srivastava</i>) <i>Ar</i> (<i>A.S.Sanghavi</i>) Member (A) Member (J)</p>

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

O.A 223 of 1993

Date of Decision : 26.03.2001

Mr. Vijaykumar N. Yadav : Petitioner (s)

Mr. C. P. Jadav : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent(s)

Mr. B. N. Doctor : Advocate for the respondent [s]

CORAM :

THE HON'BLE MR. A. S. SANGHVI : MEMBER [J]

THE HON'BLE MR. G. C. SRIVASTAVA : MEMBER [A]

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 ?

Shri. Vijaykumar Naginaprasad Yadav
Khirasara (Ghed)
Tal. Keshod
Dist. Junagadh.

- Applicant -

Advocate : Mr. C. P. Jadav

Versus

1. The Union of India, through,
The Divisional Eng., (ADMN),
C/o. T.D.M.,
Ganda Agad Road,
Junagadh & Ors.
2. The Sub-Divisional Officer (T),
S.D.O.T. Office,
Keshod
Dist. Junagadh.

- Respondents -

Advocate : Mr. B. N. Doctor

JUDGMENT
O.A 223 of 1993

Date : 03/2001

Per Hon'ble Shri. A. S. Sanghvi : Member [J].

Heard Mr. C. P. Jadav for the applicant and Mr. B. N. Doctor for the respondents. The applicant who was working as a casual labor under Telephone Exchange, Khirasara Ghed has moved this O.A challenging the termination of his services by the respondent no.2 and praying for reinstatement in the services. According to the applicant while he was working under Telephone Exchange Khirasara Ghed, a fire had broken out in the Exchange on dated 3.9.92. He had represented the matter to S.D.O.T. Keshod that one Shri. K. M. Gondalia had put the Exchange on fire and had also

lodged the complaint in the police. However, Mr. Gondalia had also lodged the complaint in the police on the same day and the police without holding any investigation had arrested the applicant for offence under Section 436, 323, 504, 506 (2) of the IPC. The applicant was kept in custody for several days and relying upon this incident the respondent no.2 had passed an order of termination of service against the applicant. According to the applicant, no inquiry is held by the respondents in the allegation made against him and he has been arbitrarily dismissed from the service.

2. The respondents on the other hand in their reply have contended that the applicant was working only as a casual labor and due to some quarrel with the land lord Mr. Gondalia, he himself had set the Exchange on fire thereby causing the damage to the extent of Rs.1,50,000/- to the Government property. The services of the applicant were terminated by the D.E. (Admn), Office of the TDM Junagadh and not by the respondent no.2 as stated by the applicant. According to respondents the act of the applicant amounted to a gross misconduct, indiscipline and mischief destroying the government property. They also contended that since the applicant was working only as a casual labor and was not even granted temporary status, no inquiry was necessary in bringing to end his services. They have also contended that the decision to terminate him from service was taken only after due inquiry at the place of the incident by the authorities. They have denied that the order terminating services of the applicant was arbitrary or illegal in any way as prior to his termination the applicant was served with a

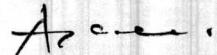
notice under Section 25 (f) of the Industrial Disputes Act. They have prayed that the O.A be dismissed with costs.

3. There is no dispute that the applicant was serving as a casual labor at Khirasara Ghed and that an incident of fire at the Telephone Exchange of the Khirasara Ghed had taken place on dated 3.9.92. The F.I.R. lodged with the police by the applicant as well as lodged by Krishnakant Mavjibhai reveal that the Telephone Exchange was housed in the building belonging to Krishnakant and on the day on which the alleged incident took place the applicant and the land lord had some exchange of words. It appears that the land lord had inquired about his telephone being not working and consequently they had some exchange of words whereby the applicant is alleged to have threatened to put the building on fire. The police had also investigated the matter and had arrested the applicant. The applicant was also kept in custody for several days. Subsequently the department had served the applicant with a notice on dated 17.10.92 under Section 25 (f) of the I.D. Act and ultimately had terminated the service of the applicant. The averment of the applicant that no inquiry was made prior to passing termination order and that no opportunity was given to him prior to the termination of his service and thereby the termination order is vitiated is clearly untenable. Since the applicant was working as a casual labor, he cannot be equated with a regular employee and cannot demand a regular inquiry into the allegations of the misconduct against him. In any case the department had issued show cause notice under Section 25 (f) of the Industrial Disputes Act

and the reply suggests that after due inquiry the department had terminated his services. No fault can be found in the termination of the services of the applicant. In such circumstances, the termination order cannot be said to be vitiated on account of not holding of the regular inquiry by the department. The applicant being a casual labor not even having attained the temporary status, his services could have been terminated at any time. Since his services could have been terminated on the ground of alleged misconduct after due inquiry by the authorities, the same cannot be set aside and the applicant cannot be reinstated in the services. We therefore do not find any merit in this O.A and in the conclusion we reject the O.A with no order as to costs.


(G.C. Srivastava)

Member (A)


(A.S. Sanghvi)

Member (J)

Mb

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No. 021223/93

of 19

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: 8/11/00

Countersigned:

pk/11/00

Section Officer/Court Officer.

dy

K. R. Bell
Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE O.A.1223/83

NAME OF THE PARTIES V N Jadan
VERSUS
U.O.I. & ORS.

SR.NO.	DESCRIPTION OF DOCUMENTS	PAGE
01.	OA W5 to Annexures	1 to 16
02.	Reply	17 to 22
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	Reply to OA	26 - 27
	Judgement Do. dt. 26/3/2001	(5 pages)

Documents found on 'C' post 1 feb 14