

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 324/93

DATE OF DECISION 28th Sept.1994.

Mr. Pradipkumar Ramsingh Petitioner

Mr. D.M. Thakkar Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Mr. N.S. Shevde. Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Dr. R.K. Saxena Member (J)

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 ?

No

Mr. Pradipkumar Ramsingh
M-12 Shyambhai's Chawl
Kaligam Sabarmati,
Ahmedabad.

Applicant.

Advocate Mr. D.M. Thakkar

Versus

1. The Union of India
(Notice to be served upon
the General Manager,
Western Railway, Churchgate,
Bombay.
2. Dy. Controller of Stores,
General Stores,
Western Railway, Sabarmati,
Ahmedabad.

Respondents.

Advocate Mr. N.S. Shevde

J U D G M E N T

In

Date; 28-09-1994.

O.A. 324/1993

Per Hon'ble Dr. R.K. Saxena

Member (J)

Shri Pradipkumar Ramsingh has brought this application challenging the order dated 27-4-1993, Annexure A-3, by which his absorption and reinstatement as casual labourer was refused. At the time of admission of the application the learned counsel for the applicant had pressed for re-absorption only and therefore following order was passed on 17-6-1993:—

" Heard learned advocate for the applicant. He does

not press the relief regarding the reinstatement of the applicant as casual labourer and confines his relief only about reabsorption. Issue notice to the respondents to file reply on admission by 5-7-1993. Call on 5-7-1993."

2. The reason for this order was that the applicant had already filed O.A. 464/92 which was decided on 5-3-1993 with the direction that the respondents shall consider the representation about his absorption. The applicant was dis-engaged in the year 1981 and therefore the relief for reinstatement was time-barred.

3. The facts of the case in brief are that the applicant was appointed as casual labourer under the respondents in the year 1981 and he worked for more than 240 days during the said period. The service of the applicant were, however, terminated by verbal order without following the procedure under section 25 F of the Industrial Disputes Act, 1947. His name was not kept in the live register as was directed by the Supreme Court in the case of Inderpal Yadav Vs. Union of India and others. It was therefore that the O.A. 464/1992 was filed and the same was decided on 5-3-1993. Despite the ^{said directions} ~~fact~~ that no relief was given, ^{hence} this application was filed afresh.

4. The respondents filed reply and disclosed the case that the representation of the applicant was decided after verifying the service record, according to which the applicant had worked only for 22 days from 3-3-1980 to 20-3-1980 and from 25-2-1981 to 28-2-1981. It is, therefore, contended that he had not worked for 240 days according to the records

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available with the respondents. The absorption of the other casual labourers in the light of the judgment of Inderpal Yadav's case is also denied.

5. The question which arises in the case is whether this Tribunal should enter into this conflict of the applicant having worked for more than 240 days or not. The view which was taken in the case A. Padmavalley and Others Vs. CPWD and Telecoms, Full Bench Judgement, Vol. II 334x on the ratio^l in the case Premier Automobiles Limited Vs. Kamalakar Wadge, AIR 1975 SC 2238 and Rohtas Industries Ltd Vs. Rohtas Industries Staff Union, AIR 1976 SC 425, was followed by this Bench in the case O.A. No. 167/90, Nanghbha Nayabha and Jashraj Nagajan Vs. Union of India and Others decided on 11-7-1994. It was held in this case that the Administrative Tribunal is not a substitute for the authorities constituted under the Industrial Disputes Act and thus if the decision in a matter which squarely comes within the jurisdiction of the authorities under the Industrial Disputes Act, should be left for them. It is for this purpose that section 28 of the Central Administrative Tribunals Act, 1985 was made ^{about} ~~exclusion~~ ^{of} jurisdiction of Supreme Court and authorities under the Industrial Disputes Act ^{which is not to} be exercised by the Administrative Tribunal. In this case, the whole question is centered around if the applicant had completed 240 days or not; and if the ratio of Inder Pal Yadav's case was applicable to the applicant. These are the matters

which should be disposed of ^{by the Industrial Tribunal &} after hearing the parties on the basis of the evidences to be adduced before it and not being very particular about limitation clause.

6. We are, therefore, of the view that the applicant ought to have approached the Industrial Tribunal for the purpose. This Tribunal cannot go into the details whether the applicant has worked for more than 240 days or not. He can still approach according to the provisions under Industrial Disputes Act, The present application stands rejected.



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



(K. Ramamoorthy)
Member (A)

*AS.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. _____ of

Transfer Application No. _____ of

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 28.11.94

Countersign :

Q
26/12/94

Section Officer

ccala
Signature of the Dealing
Assistant

Transfer Application No. _____

of

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Section Officer.

Signature of the Dealing
Assistant

Counter signed
Dated :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD BENCH

INDEX SHEET

CAUSE TITLE 041324/92 OF 19

NAME OF THE PARTIES Mr. Roodolphus Bainsingh

VERSUS

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