

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 366/93

T.A. NO.

DATE OF DECISION 25.1.1995

Executive Engineer, CPWD Petitioner

Mr. Akil Kureshi Advocate for the Petitioner (s)

Versus

Ganeshbhai Kalubhai Solanki Respondent
and anrs.

Mr. Pathak Advocate for the Respondent (s)

CORAM

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

The Hon'ble Mr. K. Ramamoorthy, Admn. Member

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 ?

JVO

The Executive Engineer,
Central Public Works Department,
Jawahar Saw Mill Building.,
O/s. Shahpur Gate,
Shahpur, Ahmedabad.

.. Applicant

(Advocate Mr. Akil Kureshi)

Versus

Shri Ganeshbhai Kalubhai Solanki,
residing at C/o All India CPWD
Employees' Union,
Jawahar Saw Mill Building
Shahpur Ahmedabad.

.. Opponent

(Advocate Mr. Pathak)

Dt. 25.1.1995

ORAL ORDER

O.A.No.366/93

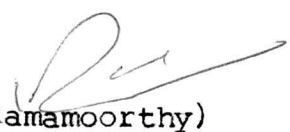
Per : Hon'ble Mr. N.B.Patel, Vice Chairman

In this OA, the Central Public Works Department (CPWD), challenges the award of the Industrial Tribunal in Reference (ITC) No.56/91 whereby the Industrial Tribunal has struck down as illegal and void the retrenchment of one Shri Ganeshbhai Kalubhai with effect from 2.3.1991 and has directed the department to reinstate the said Shri Ganeshbhai Kalubhai. It is further ordered that Shri Ganeshbhai Kalubhai shall be paid monthly salary at the minimum pay-scale, in the pay-scale which was given to ~~the~~ a permanent Jeep driver with effect from 2.3.1991 with all allowances which may be payable on the basis of the said salary. It appears that Shri Ganesh Kalubhai worked with the department as Jeep driver almost continuously from 24.5.1989 till he was retrenched or terminated or not renewed for employment with effect from 1.3.1991.

There was no dispute about the fact that ^{if} Shri Ganeshbhai Kalubhai is held to be entitled to the benefit of the provisions of Section 25F of the Industrial Disputes Act, his termination was illegal inasmuch as no notice or notice pay in lieu of notice was given or paid to him nor was any retrenchment compensation paid to him. To see that the case of the applicant went out of the provision of Section 25F of the I.D. Act, it was contended on behalf of the department before the Tribunal ^{and also before us} that the case of the applicant was covered by Section 2(oo)(bb) ~~in as~~ inasmuch as the Workman was employed under different work orders for specific purpose and, therefore, under the very terms of the contract with him, his employment came to an end on non-renewal of the contract. The Tribunal has for very cogent reasons negatived this contention and held that the case of the applicant was not covered by Section 2(oo)(bb) of the Industrial Disputes Act and hence the termination of the employment of the applicant was violative of Section 25F of the I.D. Act. The main circumstances which is ^{upon} relied ^{by} the Tribunal for coming to the conclusion that the applicant's employment was never intended to be seasonal or temporary that the applicant was engaged to drive the Jeep Car of the department and the work which a Jeep Car ^{driver} would have to do would not be of a temporary or seasonal nature, but would be work required to be done for all ^{the} time till the department maintained the jeep car. It ~~was~~ also brought on record before the Tribunal that, in fact, after the applicant was terminated with effect from 2.3.1991, some other employee named Ramachandra had immediately to be called from another office of the department and had to be assigned the duty of driving of the Jeep Car. We are, therefore,

in agreement with the view taken by the Tribunal that the device of employing the workman from time to time by different orders was taken recourse to only to deny him the benefits of the provisions of the Industrial Disputes Act. No other contentions was raised by the learned Additional Standing Counsel.

2. We find no substance in the OA and dismiss the same without, however, any order as to costs. Interim stay vacated. The department is directed to make payment of the remaining part of back wages payable to the applicant pursuant to the Industrial Tribunal award, within a period of 6 weeks from the date of ^{the} receipt of a copy of this judgment. /


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman

sr

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

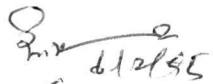
Application No. 04/366/93 of
Transfer Application No. _____ of


CERTIFICATE

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

Dated : 31.01.95

Countersign :


Section Officer.


Signature of the Dealing
Assistant

INDEX - SHEET

NAME OF THE PARTIES XLEN, CPWD, A'beo

MR. G. K. Solanki

[illegible]