

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 381/93
T.A. No.

DATE OF DECISION 22-9-93

Shri Chhaganbhai P. Aal Petitioner

Shri D.K. Mehta Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. V. Radhakrishnan Member (A)

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 ?

Shri Chaganbhai P Aal
Savlana, Ta. Lakhtar
Dist. Surendranagar.

Applicant

Advocate

Shri D.K. Mehta

Versus

1. The Union of India
(Notice to be served through
The Director General, Posts and
Telegraphs Dept., Ministry of Communications,
New Delhi)
2. Divisional Engineer (Telephones)
Near Alankar Talkies, Surendranagar.
3. Sub-Divisional Officer, (Phones)
Trunk Bhavan, Surendranagar.
4. Assistant Engineer (Phones)
Telephone Exchange, Surendranagar.

Respondents

Advocate

Shri Akil Kureshi

O R A L J U D G E M E N T

In

O.A. 381 of 1993

Date: 22-9-93

Per Hon'ble

Shri N.B. Patel

Vice Chairman

The applicant challenges the validity of the oral order of termination of his casual employment with effect from 30-6-86. It is pleaded by him that he had completed more than 240 days of service in the Calendar year preceding the date of his termination and yet his employment is terminated orally without giving him any notice or paying him any notice pay and without paying him any retrenchment compensation as required by Section 25 F of the Industrial Disputes Act. He prays that the termination of his employment should be declared

as void and a declaration be given that he continues in service. He also prayed for being awarded full back-wages from the date of his termination till the date of his reinstatement and all other consequential benefits.

2. It may be noted that since the applicant's case is that he was terminated with effect from 30-6-86 and since he has filed the present application more than six years after the date of termination, i.e. on 6-7-1993, he had filed M.A. No. 358/93 for condonation of delay and the said M.A. has been allowed by our order dated 15-9-93. It may be noted that, in the said delay condonation application, the applicant had indicated that he would forego the claim for back-wages to the extent deemed fit by the Tribunal.

3. In reply to the Original Application, the respondents have filed written statement today wherein the averments in the application that the applicant had completed more than 240 days of employment during the Calendar year preceding the date of the termination of his employment on 30-6-1986 and that his termination was not brought about by a notice as envisaged by Section 25 F of the Industrial Disputes Act or by payment of wages for the notice period in lieu of notice and that he was not paid any retrenchment compensation have not been denied. This averments must, therefore, be taken to have been impliedly admitted. It then follows that the oral termination of the employment of the applicant was in clear contravention of the provisions of Section 25 F of the Industrial Disputes Act, and has to be struck down as null and void. As a

a necessary corollary, the order terminating the employment of the applicant must be treated as non-est and it must be declared that the applicant continues in service throughout despite the termination of his service. The applicant is also entitled to claim reinstatement on the same post on which he was employed as before. The only question is about the payment of back-wages to the applicant. Taking into consideration the fact that the applicant has approached this Tribunal at a very late stage and he must have been gainfully employed in the meantime, we find that this is a fit case where the applicant should not be awarded any back wages till the expiry of the period to be stipulated by us within which the applicant must be reinstated or till his reinstatement, whichever is earlier. We may state that Mr. Mehta, for the applicant has consented to such an order being passed for back wages.

4. In the result, the application is allowed. The oral termination of the employment of the applicant is declared to be null and void and the applicant is ordered to be reinstated by the respondents, within seven days from today, with continuity of service and all other consequential benefits (including regularisation of service if due) except back-wages till the expiry of seven days from today or till actual reinstatement, whichever is earlier. In other words, even if the applicant is not actually reinstated in service within seven days from today, the respondents will start paying him wages on

the expiry of the aforesaid stipulated period. The applicant to report for duty within the aforesaid period of seven days.

No order as to costs.


(V. Radhakrishnan)

Member (A)


(N.B. Patel)

Vice Chairman.

*AS.

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No.

02/381/93

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: 8/10/98

Countersigned:

R. L. M.

Section Officer/Court Officer.


Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE 04/381/93

NAME OF PARTIES Chhaganlal P. Patel

VERSUS

6.0.18

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD.

Application No. 04/381/93 of 199
Transfer Application No. — Old writ Pet. No.

C E R T I F I C A T E

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

Dated : 06/10/93

Countersigned :

Section Officer/Court Officer

Sign. of  Dealing Assistant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD BENCH

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CAUSE TITLE CM 381 93 OF 19

NAMES OF THE PARTIES Dhayambhai P. Adl

VERSUS

4-02-2000.