

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 383/93
T.A. No.

DATE OF DECISION 12-8-93

Shri R.N.Pargi Petitioner

Shri Anil Kothari 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 ?

No.

Raisingshbhai Naranjibhai Pargi
 Pratapgadh, Khedapa,
 Santrampur, District Panchmahals

Applicant

Advocate Shri Anil Kothari

Versus

1. Union of India
 Notice to be served through
 the Head of the Department
 Department of Posts, New Delhi.

2. Superintendent of Post Offices
 Near Old Bus Stand,
 Panchmahals Division,
 Godhra.

Respondents

Advocate Shri Akil Kureshi

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

IN

O.A. 383 of 1993

Date: 12-8-93

Per Hon'ble Shri N.B. Patel

Vice Chairman.

Admitted. Mr. Kureshi waives service. Reply
 is already filed. At the request of ^{the} L learned Advocates, the
 matter is taken up for final hearing.

2. The applicant was working as an adhoc Branch
 Postmaster, Pratapgadh, Dist. Panchmahals by ~~an~~ appointment
 order Annexure A dated 14-5-1992. This order makes it clear

that the need to engage ~~the~~ Sub-Postmaster at Pratapgadh had arisen because the earlier incumbant, one Mr. M.B.Pargi, was "put off duty" pending finalisation of Disciplinary proceedings instituted against him. It is also clear from the appointment order that the appointment given to the applicant was provisional and was to enure till the Disciplinary proceedings against Mr. M.B. Pargi were fully disposed of and he had exhausted all remedies — Departmental and Judicial — against his possible termination from service and till it was finally decided not to take back Mr. M.B. Pargi into service. The order also provides that if, ultimately, Mr. Pargi was to be terminated from service, the appointment of the applicant was to continue till ~~the~~ regular appointment to the post was made. The order provides that the appointment of the applicant would stand terminated if, at any stage, it was decided to take back Mr. M.B. Pargi in service.

It is an admitted position that the Departmental proceedings, which are instituted against Mr. M.B. Pargi, are still pending and yet the applicant's service is terminated by the impunged order dated 22-6-1993, Annexure A-1. There is no doubt about the fact that the need to engage somebody vice Mr. M.B. Pargi, who is put off duty and who still faces Disciplinary proceedings yet continues. It is true that, in the appointment order, it is stated that the

may terminate the provisional appointment of the applicant any time before the period mentioned earlier i.e., before it is decided to take back Mr. M.B.Pargi in service or somebody else is appointed in his place on a regular basis. However, the respondents cannot invoke this condition in the appointment order, because it is an admitted position that somebody is required to be appointed to the post in question and it is also an admitted position that no regular appointee is available and is proposed to be appointed as the inquiry against Mr. M.B. Pargi is still in progress.

3. In the above circumstances, there cannot be any doubt that the termination of the service of the applicant, by the impugned order Annexure - A, is illegal and has got to be set aside. The application is, therefore, allowed and the impugned order Annexure - A1 dated 22-6-92, by which the applicant's service is terminated, is quashed and set aside and the respondents are directed to take back the applicant in service as ^{Branch} ~~Sub~~ Post Master on the same terms and conditions as are to be found in the appointment order Annexure A, within a period of one week from today, with all consequential benefits including continuity of service but without back-wages, since it was stated by Mr. Kothari, on behalf of the applicant, that the applicant does not press for his claim for back-wages. No order as to costs. Direct Service permitted.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice-Chairman.