

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. NO. 401/93

~~T.A. NO.~~DATE OF DECISION 01.11.95

Maltadevi Bhosle Petitioner

Mr. P. H. Pathak Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent

Mr. 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)

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 ?

No

period of one year preceding the date of termination and, therefore, the termination of her service could have been validly brought about only ^{by} giving her retrenchment compensation and not merely by giving her one month's notice.

2. The respondents have not denied that the applicant was working as a Peon since April, 1990 and, further that her service have been terminated by notice dated 29.4.1992 which gave her more than one month before the date of her termination. It is, however, not the case even of the respondents that any retrenchment compensation was ~~not~~ offered, much less paid, to the applicant at or before the time of her termination. The respondents have ~~contended~~ ^{not} ~~denied~~ that the provisions of the I.D. Act are ~~not~~ ^{not} applicable in the present case, as Small Industries Service Institute, where the applicant was employed, is ^{not} an 'Industry'. However, in some earlier judgments, we have dealt with this contention and rejected it.

3. A bare reading of Section 25F (b) of the Industrial Disputes Act shows that the applicant's services could have been validly terminated by offering or paying her retrenchment compensation and mere service of one month's notice would not suffice for ^w ~~bringing~~ about valid termination of her service. We, therefore, find that the termination order is void ab-initio and ^{we} ~~formerly~~ would ^{normally} ~~have been~~ ordered reinstatement of the applicant with continuity of service and other consequential benefits. However, it has been brought to our notice that the applicant is again reappointed w.e.f. 4.8.1995 and, therefore, there is no need in this case of issuing a formal direction to reinstate the applicant. She would, of course, be entitled to claim wages for the period from 1.6.1992 to 3.8.1995 as she should be deemed to be continuously in service despite the termination order. She will also be entitled to all other consequential benefits on the basis, as if there was no termination order

Maltadevi Bhosle,
Room No.1005, Block No.84,
Gota Housing Society,
Gota Gam, Ahmedabad.

(Advocate: Mr.P.H.Pathak)

Versus

1. Union of India
Through:
Secretary,
Ministry of Industries
Small Industries Service
Institute,
New Delhi.
2. Dy.Director,
Small Industries Service
Institute,
Harisiddh Chambers,
4th Floor,
Ahmedabad-14.

(Advocate: Mr.Akil Kureshi)

ORAL ORDER

O.A. 401/93

Date:1.11.95

Per: Hon'ble Mr. N.B.Patel

: Vice Chairman

The applicant was appointed as a peon on compassionate basis in April, 1990 in the office of the Respondent No.2. Since then she was continuously working till she was terminated w.e.f. 1.6.1992. Before terminating the service of the applicant, the Department had served her with a notice dated 29.4.1992 purporting to have been under Rule 6 of C.C.S. (Temporary Services) Rules, 1965. In the notice, it was stated that her services will stand terminated w.e.f. 1.6.1992 and, accordingly, her services actually have been terminated w.e.f. that date. The applicant challenges the termination of her service on the ground of its being violative of Section 25F (b) of the Industrial Disputes Act contending that her services could have been terminated only by giving her retrenchment compensation as envisaged by that provision and not merely by giving her one month's notice. It is the case of the applicant that, since she was continuously working from April, 1990 till 31.5.1992, she had completed 240 days during the

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in existence of law. We accordingly direct the respondents to take necessary steps within a period of four weeks from the date of the receipt of a copy of this judgment and dispose of the O.A. accordingly.

No order as to costs.



(V. Radhakrishnan)
Member (A)



(N. B. Patel)
Vice Chairman

aab

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 04/401/93

Transfer Application No. _____

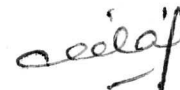
CERTIFICATE

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

Dated : 09.11.95

Countersign :


Section Officer.


Signature of the Dealing
Assistant

I N D E X - S H E E T

04/40/93

Maitadevi Bhosle

U. O. I. & O. G.

[illegible]