

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 536 of 93
PAANO.

DATE OF DECISION 17/1/00

Shri. Maganbhai Mahijibhai Rohit Petitioner

Mr. V. M. Dhotare Advocate for the Petitioner [s]
 Versus

Union of India & Ors. Respondent

Mr. M. S. Rao Advocate for the Respondent [s]

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The Hon'ble Mr. V. Ramakrishnan : Vice Chairman

The Hon'ble Mr. P. C. Kannan : Member (J)

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 Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri. Maganbhai Mahijibhai Rohit,
Residing at Angadh,
Tal. & Dist. Baroda.

= Applicant =

(Advocate : Mr. V. M. Dhotare)

Versus

1. Union of India,
Notice to be served through
The Director General,
C. P.W.D., Nirman Bhavan,
New Delhi.
2. The Assistant Engineer,
C.P.W.D, Central Sub-Division,
Race Course, Baroda.
3. The Executive Engineer,
Gandhinagar Central Division
C.P.W.D., Gandhinagar.

= Respondents =

(Advocate : Mr. M. S. Rao)

JUDGMENT

O.A 536 OF 1993

Date : 17/11/2000

Per Hon'ble Shri. P. C. Kannan : Member (J).

The applicant, a casual labour under the respondents is aggrieved against the action of the respondents in not permitting him to resume duty as casual labour w.e.f. 24.06.92 and seeks a direction to the respondents to reinstate him as casual labour with all consequential benefits.

2. The case of the applicant is that he joined as Belder (Casual labour) on 16.01.84 under the respondents and continued to work till 1991. The applicant submits that he could not report to duty from 1991 till 24.06.92 as he was suffering from very hazardous and fatal disease of T.B. After getting cured from the said disease, he approached the respondent no.2 along with a medical certificate on 24.06.92 (Annexure 'A') and requested him to take back for duty. The respondent no.2 refused to take back for duty. ^{him} He requested respondent no. 3 at the end of July, 1992 and requested that he should be permitted to resume duty. He also displayed his inability. He thereafter, sent a notice on 26.09.92 and followed it by the reminder dated 25.01.93 (Annexure A/1). The applicant submits that he has completed a continuous service of 256 days in 1987 (Annexure A-2). The applicant filed O.A 180 of 93 before this Tribunal and after hearing both sides, this Tribunal by its order dated 12.04.93 disposed of the O.A with a direction to the respondents to consider the representation of the applicant sympathetically within a period of four weeks and communicate its decision to the applicant (Annexure A-3) and the respondent no. 3 vide its order dated 17.06.93 (Annexure A-4) ^{not Considered} rejected the same.

3. The respondents in their reply submitted that the applicant had joined as casual labour (Belder) under the respondent no.2 on 16.01.84 and he worked continuously till 31st December 1990 and that he had completed 256 days in the year 1987. The applicant had remained absent from 01.12.89 to 30.06.90 and thereafter again he remained absent from January, 91 onwards without any intimation. The applicant did not intimate regarding his sickness. In June ' 92, the applicant desired to join the duties and for that purpose he produced a medical certificate from a

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private doctor. The certificate showed that the applicant was treated for pulmonary Tuberculosis. The applicant did not produce medical certificate from the Govt. T. B. Sanitorium. As the casual labour did not hold any lien on any post and since there was a ban existing on recruitment of casual labour, the applicant was not taken back for duty. The respondents further stated that in accordance with the instructions issued by the department, if a casual worker once abandoned his job, he severs all the connections with the department and if he is re-engaged, it amounts to fresh employment. As there was a ban on the engagement of casual labour, he was not engaged as it would attract the ban order. It was also stated that the applicant had not completed 240 days of service in a year for consecutive two years as required under the scheme.

4. We have heard Shri. V. M. Dhotare, counsel for the applicant and Shri. M. S. Rao, counsel for the respondents. Mr. Dhotare refers to the judgment of the Ernakulam Bench of this Tribunal in the case of P. P. Ramadasan V/s. The Sub-Divisional Officer, Telegraphs, Chalakudy and others, [10 / 99 Swamyness 98, (Ernakulam), date of Judgment 20-01-1999] and submitted that in terms of the above ruling, a casual labour cannot be removed from service without giving him notice and holding an inquiry. Mr. Rao submitted that the facts of the case clearly shows that the applicant absented himself from 01.01.92 without any intimation and thus severed all connections with the department. It was only after June ' 92, the applicant approached the respondents for his re-engagement. In his representation dated 18.05.93, (Annexure A), the applicant himself has admitted that he was suffering from T. B. and therefore could not report for duty. In the light of the above

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admission by the applicant, Mr. Rao submitted that the applicant cannot be re-engaged as casual labour. He also submitted that the applicant did not acquire temporary status in accordance with the scheme of the respondents and in the light of the ban imposed by the department in 92, the applicant cannot be re-engaged. He also referred to the Annexure R-1 dated 18.02.94 and stated that in place of the applicant, no other person was re-engaged.

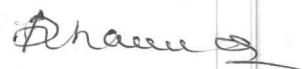
5. We have carefully considered the submissions of both the counsel and examined the pleadings. The facts in the case clearly show that the applicant had remained absent from 01.12.89 to 30.06.90 and again from January '91 onwards. He had not submitted any medical certificate issued by Government hospital or leave application with regard to the fact that he was suffering from T.B. Till June '92, the applicant did not make any attempt to inform the respondents about his absence. In the case of Ramadasan Vs. The Sub-Divisional Officer, Telecom (Supra) the facts show that the applicant who was conferred with a temporary status was removed from service on the basis of a complaint and without giving him a notice or holding an inquiry. In the circumstances, the impugned order was set-aside. In the present case, the facts are different and we hold that the said Judgment in Ramadasan's case has no application to the present case. The applicant was a casual labour and was not conferred with temporary status under the scheme.

6. The applicant is a casual labour and for regularisation of the casual labour, a scheme has been formulated. In accordance with the scheme, the casual labours were engaged, granted temporary status and regularised. The counsel for the

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applicant has not brought out any violation made by the respondents in this case. As stated earlier, the applicant absented himself without intimation for a long time (over 18 months). When the applicant sought re-engagement in June'92, the respondents could not re-engage him as there was a ban on the engagement of casual labour. We find force in the submission of the respondents.

7. In the facts and circumstances, we hold that the O.A is devoid of merits and accordingly dismissed. No order as to costs.


(P.C. Kannan)
Member (J)


17/1/2001
(V. Ramakrishnan)
Vice Chairman

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