

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 629/93

T.A. NO.

DATE OF DECISION 21.7.1994

Shri Poonambhai Popatbhai Patni Petitioner

Mr. P. H. Pathak

Advocate for the Petitioner (s)

Versus

Union of India

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.

Poonambhai Popatbhai Patni,
Kunj Nagar, Shahibaug Road,
Opp. New Civil Hospital,
Ahmedabad.

Applicant

Advocate Mr. P.H. Pathak

versus

Union of India,
Notice to be served through :
Chief General Manager,
Telecommunications Department,
Gujarat Circle, Khanpur,
Ahmedabad.

Respondent

Advocate Mr. Akil Kureshi

ORAL ORDER

O.A.629/93

Date: 21.7.94.

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

The applicant was employed as a Casual Labourer in the Telecommunications Department, Gujarat Circle, initially in 1987 or thereabout. His employment is terminated by an oral order dated 6.3.1992. The applicant challenges the legality of the said order on the ground that he had put in more than 240 days of work in the year preceding the date of termination of his employment and also on the ground that while he was terminated, some persons junior to him were retained in employment. It may be noted that this latter

ground of challenge. is not mentioned in the O.A. itself, but is is mentioned in the rejoinder and, on a specific query being made, Mr. Kureshi states that no reply is proposed to be filed to the rejoinder.

2. So far as the version of the applicant that he had completed 240 days or more of work during the year preceding 6.3.1992 is concerned, there is a dispute between the parties. The respondents state that the applicant had put in only 235 days of work during the said relevant period. We may not, therefore, go into the question whether the termination of the applicant's employment is in contravention of Section 25 F of the Industrial Disputes Act.

3. Since, however, no dispute is raised against the version that while the applicant was terminated, his juniors, named in the rejoinder, were retained in the employment, there should be no doubt that the termination of the applicant's is in clear violation of the provision of Section 25 (G) of Industrial Disputes Act. That being so, the termination order has to be set aside and the respondents have to be directed to reinstate the applicant.

4. Since the termination is illegal, the question is what consequential benefits should be awarded to the applicant. Mr. Pathak, for the applicant, states that the applicant does not press the claim for back-wages, if the respondents are directed to reinstate the applicant in employment within a reasonably short time with a further condition that if, for any reason, the applicant is not

reinstated within the stipulated period, the respondents would at least start paying wages to the applicant on the expiry of stipulated period.

5. In the result of the above discussion, the order terminating the employment of the applicant is quashed and set aside as being illegal and void. The respondents are directed to reinstate the applicant in employment within a period of 15 days hereof and if, for any reason, actual reinstatement is not made, within the said stipulated period, the respondents are directed to pay wages to the applicant from the date on which the said period expires. The respondents are directed to grant benefit of continuity of service to the applicant ignoring the termination order. No order as to costs.


(V. Radhakrishnan)
Member (A)


(N.B. Patel)
Vice Chairman

*ssh