

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 656 OF 1993.

~~REXX NO.~~

DATE OF DECISION 24-3-1995.

Dipakbhai I. Thakor, **Petitioner**

Mr. R.K. Mishra, **Advocate for the Petitioner (s)**

Versus

Union of India & Ors. **Respondents**

Mr. Akil Kureshi, **Advocate for the Respondent (s)**

CORAM

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

The Hon'ble Mr. K. Ramamoorthy, Admn. Member.

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

Dipakbhai I.Thakor,
At & Post - Kharvel,
Taluka - Dharampur,
District - Valsad.

..... Applicant.

(Advocate: Mr. R.K. Mishra)

Versus.

1. Union of India,
Ministry of Communication,
Department of Telephones,
(to be served through the
Director General,)
Door Sanchar Bhavan,
Sansad Marg,
New Delhi.

2. District Manager (Telephones),
District Telecom,
District - Valsad.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 656 OF 1993

Date: 24-3-1995.

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

After hearing the arguments of both the learned advocates, we find that there are circumstances in the case which, prima facie, indicate that the so-called settlement, between the applicant-employee and the respondents-employer, before the Conciliation Officer, was no settlement at all or was atleast not a fair and amicable settlement, so far as the applicant employee is concerned. We, therefore, feel that this is a fit case in which Conciliation Officer i.e., Assistant Labour Commissioner (Central) Ahmedabad, on being formally moved by the applicant, should consider, on the merits of the case, whether there was a genuine and fair

settlement and if ~~we~~ ^{he} find that there was no such settlement, he should reopen the conciliation proceedings and take appropriate action in the matter. We may once again repeat that our own *prima facie* feeling is that the settlement was not a fair one, even though the applicant was represented by some Union and an advocate. However, it will be for the Conciliation Officer to consider and take decision on this question. Mr. Mishra, for the applicant, states that the applicant is prepared to make an application to the Conciliation Officer for reopening the case and the applicant will be satisfied, at this stage, if the Conciliation Officer is directed to take decision in the matter within a fixed time-limit. If the applicant makes an application to the Conciliation Officer within a period of four weeks from today, the Conciliation Officer, i.e., Assistant Labour Commissioner (Central) Ahmedabad is directed to deal with that application in the light of our above observations within a period of eight weeks from the date of the receipt of the application by him. We hope that, if and when the Conciliation Officer is moved by the applicant and the matter is examined by the Conciliation Officer, the department will not take a technical and rigid stand. In view of these directions, Mr. Mishra seeks permission to withdraw the O.A. O.A. stands disposed of as withdrawn. No order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

Serial No. 80, 81, 82, 83, 84

Register No. 4

Page No. 44, 45, 46

Date: 3/11/2004

Respectfully submitted:

Hon'ble Vice Chairman,

Hon'ble Member (J)

Hon'ble Member (A)

Hon'ble Member (-)

Certified copy of order dated 10/9/04 in C.A./
~~10/4/02 10/4/02~~ Special C.A. No. ~~10/4/02~~ of 10/8/02 passed by the
Hon'ble Supreme Court / Hon'ble High Court against the
Judgment / Oral Order passed by this Tribunal in Original
Application No. 682/93 8 placed for perusal please.
656/93

Dealing Clerk
3/11/04

S.O. (J)

Position of this Case is: 1. Confirming CAT Order.

2. Partly allowed.

3. Reversing CAT Order.

Registrar

3/11

DRW
3/11

Hon'ble Vice Chairman,

3/11

Hon'ble Member (J)

3/11

Hon'ble Member (A)

3/11

Hon'ble Member ()

COMMON WRIT

Decree Despatch No.

Date 27/1/03

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No 10425 of 2002
(Under Article(s) 226, 227 of the Constitution of India)

1. TELECOM DISTRICT MANAGER VALSAD DIST. Petitioner
Vs
1. NAMLABHAI RANCHHODBHAI PATEL Respondent

To

1. TELECOM DISTRICT MANAGER VALSAD DIST.

B.S.N.L. VALSAD,
AT EKTA APARTMENT,
TITAL ROAD,
VALSAD.

2. THE MEMBER
INDUSTRIAL TRIBUNAL,
AT SURAT.
(REF. (ITC) NO.1/96 TO 5/96).

3. THE MEMBER
CENTRAL ADMIN. TRIBUNAL, OPP.
SARDAR PATEL STADIUM, ASHRAM
ROAD, AHMEDABAD. (REF. O.A.NOS.
682 AND 656/1993).

Upon reading the petition of the above named Petitioner presented to this High Court of Gujarat at Ahmedabad on 09/10/2002 praying to grant the prayers and etc...

And whereas upon the Court ordered 'Rule' to issue on 11/10/2002

And Whereas Upon hearing
MR YASHWANT S BAROT for the Petitioner no. 1
NOTICE SERVED for the Petitioner no. 1
MR PK SHUKLA for the Respondent no. 1

Court passed the following order :-

CORAM: AKIL A. KURESHI, J.

DATE: 10-9-2004.

SPECIAL CIVIL APPLICATION NO.10425 OF 2002
WITH
SPECIAL CIVIL APPLICATION NOS.10497, 10429, 10427 AND
10818 OF 2002

DR 97
"Though called out twice, None appears for
petitioner on each occasion, Hence dismissed for default."

Contd.....2

Witness BHAWANI SINGH, Esquire Chief Justice at Ahmedabad
aforesaid this 10th day of Sep, 2004.

By the Court

S
For Deputy Registrar
This 29th day of Oct 2004

Note : This writ should be returned
duly certified within 2 weeks
(501) 261020



THE HIGH COURT
OF GUJARAT

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No. 10425 of 2002

1. TELECOM DISTRICT MANAGER
B.S.N.L. VALSAD,
AT EKTA APARTMENT,
TITAL ROAD,
VALSAD.

VALSAD DIST.

.....Petitioners

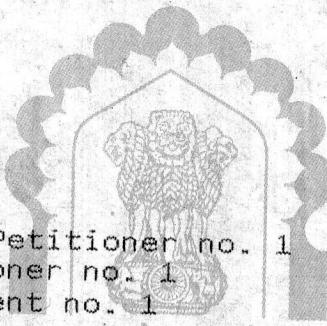
Versus

1. NAMLABHAI RANCHHODBHAI PATEL
RANPADA,
POST BARSOL,
TAL.DHARAMPUR,
DIST. VALSAD.

.....Respondents

APPEARANCE ON RECORD

MR YASHWANT S BAROT for Petitioner no. 1
NOTICE SERVED for Petitioner no. 1
MR PK SHUKLA for Respondent no. 1



सत्यमेव जयते

CORAM: MR. JUSTICE AKIL KURESHI
OF GUJARAT

Date of Decision: 10/09/2004

ORAL JUDGEMENT (Per : MR.JUSTICE AKIL KURESHI)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No. 10497 of 2002

1. TELECOM DISTRICT MANAGER VALSAD DIST.
B.S.N.L. VALSAD,
AT EKTA APARTMENT,
TITAL ROAD,
VALSAD.

Petitioners

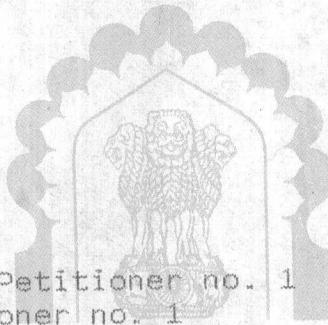
Versus

1. SURESHBHAI AMBALAL DAVE
RBL-II/119,
KAPROLI ROAD,
AMBAJI ROAD.
TAL.PARDI, DIST.VALSAD.

Respondents

APPEARANCE ON RECORD

MR YASHWANT S BAROT for Petitioner no. 1
NOTICE SERVED for Petitioner no. 1
MR PK SHUKLA for Respondent no. 1



THE HIGH COURT
CORAM: MR JUSTICE AKIL KURESHI

Date of Decision : 10/09/2004

ORAL JUDGEMENT (Per : MR.JUSTICE AKIL KURESHI)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

Special Civil Application No. 10429 of 2002

1. TELECOM DIST. MANAGER
B.S.N.L. VALSAD,
AT EKTA APARTMENT,
TITAL ROAD,
VALSAD.

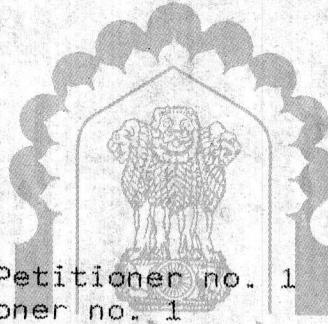
VALSAD DISTRICT

.....Petitioners

Versus

1. NITINKUMAR H SHASTRI
HARI OM NIWAS, ALKAPURI SOC.,
NEAR SNEH PARK,
POST KAPRADA,
DIST. VALSAD.

.....Respondents



APPEARANCE ON RECORD

MR YASHWANT S BAROT for Petitioner no. 1
NOTICE SERVED for Petitioner no. 1
MR PK SHUKLA for Respondent no. 1 रायते

THE HIGH COURT
CORAM: MR JUSTICE AKIL KURESHI

Date of Decision : 10/09/2004

ORAL JUDGEMENT (Per : MR. JUSTICE AKIL KURESHI)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
Special Civil Application No. 10427 of 2002

1. TELECOM DIST. MANAGER
B.S.N.L., VALSAD,
AT EKTA APARTMENT,
TITAL ROAD,
VALSAD.

VALSAD DISTRICT

.....Petitioners

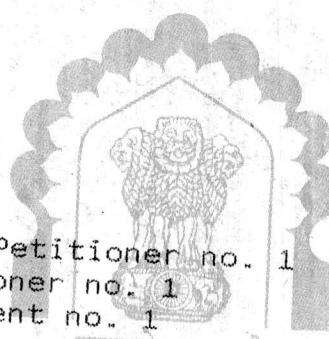
Versus

1. DIPAKBHAI I THAKORE
AT & POST KHARVAD,
TAL. DHARAMPUR,
DIST. VALSAD.

.....Respondents

APPEARANCE ON RECORD

MR YASHWANT S BAROT for Petitioner no. 1
NOTICE SERVED for Petitioner no. 1
MR PK SHUKLA for Respondent no. 1



CORAM: MR. JUSTICE AKIL KURESHI
OF GUJARAT
Date of Decision: 10/09/2004

ORAL JUDGEMENT (Per : MR. JUSTICE AKIL KURESHI)

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
Special Civil Application No. 10818 of 2002

1. TELECOM DISTRICT MANAGER
B.S.N.L. VALSAD.
EKTA APARTMENT,
TITAL ROAD,
VALSAD.

.....Petitioners

Versus

1. BALVANTBHAI KODHABHAI VANKAR
AMINPUR.
POST PALACHAR,
TAL. PRANTIJ,
DIST. S.K.

.....Respondents



APPEARANCE ON RECORD

MR YASHWANT S BAROT for Petitioner no. 1
NOTICE SERVED for Petitioner no. 1
MR PK SHUKLA for Respondent no. 1 या व जयते

THE HIGH COURT
CORAM: MR. JUSTICE AKIL KURESHI

Date of Decision : 10/09/2004

ORAL JUDGEMENT (Per : MR. JUSTICE AKIL KURESHI)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

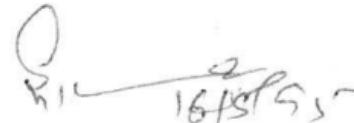
Application No. 04/656/93 of
Transfer Application No. _____ of

CERTIFICATE

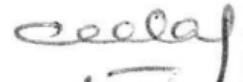
Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 18.04.95

Countersign :


16/SP/95

Section Officer.


Signature of the Dealing
Assistant

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX - SHEET

CAUSE TITLE 0A1656193

NAME OF THE PARTIES MR. D. A. Thakore

VERSUS

U. S. I. & Orl.

| SR. NO. | DESCRIPTION OF DOCUMENTS | PAGE |
|---------|--------------------------|----------|
| 1 | 04 | 1 to 13 |
| 2 | Reply | 14 to 16 |
| 3. | O.O. dt'd 24.03.95 | |
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DA 656/93 - 1 April
g.

684/93 - 2 April

Mr. Misra was Mr. K. K. Mehta

Shankar | Carnal - appointed 24-4-90
Shankar | Terminated after 1 year on
Shankar | 5-4-91
Shankar | App. worked Com. Office with
Shankar | Staff until 15(F)
Shankar | Date 1st Settlement
Shankar | 30-6-93

All
P.T.O.

→ 24-4-91 }
240 days } 5-4-91 } Signed of hospitalization
240 days } 5-4-91 } & terminated
240 days } 5-4-91 } & terminated

App. 1st
24/4/91 Appointed
15/4/93 Terminated
431 days without
break

App. 1st
24/4/91 Appointed
15/4/93 Terminated
403 days without
break

Admittedly all 3 had completed 240
days during the event period & 25F
not followed. Shakti started

30/6 Settlement

All are literates.
Signed by their Advocate
Union Secretary was there

I con. officer compels

Grounds Page No. 5

① Promise to reinstate
DO not demand compensation
~~for~~ went next day - no
work

2-11-93 O A Tid

Mr. Kurushii

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
A. AHMEDABAD

Submitted :

C.A.T./Judicial Section.

Original Petition No

656

of

1993

Miscellaneous Petition No

of

Shri D.A. Thakore

Petitioner(s)

versus

U.O.I. & O.S.

Respondent (s)

This application has been submitted to the Tribunal by

Shri R.K. Mishra, Adv.

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/draft letter is placed below for signature. File Size envelopes not supplied

ASSTT.

H Patel
9/11/93

may be given regular number.

Abdul
9-11-93

D.R.(J)

Prabh
9-11-93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO.

656

KNOF 1993.

Deepakbhai A. Thakor.

...Petitioner.

Versus

Union of India & others.

...Respondents.

INDEX

| Annex. | Particulars. | Page no. |
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| A/2 | Certificate issued by the Haria Rotary Hospital | 11 |
| A/3 | Settlement dated 30.6.1993. | 12-13 |

Ahmedabad
Date: NOV. 2, 1993.(R.K. Mishra)
Advocate for Petitioner

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH AT AHMEDABAD.

ORIGINAL APPLICATION NO.

OF 1993

Dipakbhai I.Thakor,
At & Post- Ekram Kharvel,
Taluka - Dharampur,
District-Valsad.

... Petitioner

Versus

1. Union of India,
Ministry of Communication,
Department of Telephones,
(tobe served through the
Director General,)
Door Sanchar Bhavan,
Sansad Marg,
New Delhi.

2. District Manager(Telephones),
District Telecom,
District- Valsad.

... Respondents.

3. DETAILS OF THE PETITIONERS.

- a. Name
- b. Designation
- c. Office address
- d. Address for service of notice.

As per the cause title.

II. PARTICULARS OF THE RESPONDENTS:

- a. Name
- b: Designation.
- c. Address.

As per the cause title.

III. PARTICULARS OF THE ORDER/ACTION UNDER CHALLENGE:

This petition is directed challenging the action on the part of the respondent-authorities in terminating the services of the petitioner in a flagrant violation of Section 25(F) of the Industrial Disputes Act and also the action is further

challenged on the ground of section 25(H) of the Industrial Disputes Act and also the petitioner challenges the settlement dated 30.6.1993, reached under section 12(3) of the Industrial Disputes Act.

IV. JURISDICTION :

The petitioner submits that the subject matter of this petition falls within the jurisdiction of this Hon'ble Tribunal.

V. LIMITATION :

The petitioner states that the present petition is within the time limit and is not barred by delay and laches.

VI. FACTS OF THE CASE :

1. It is submitted that the petitioner was appointed by the respondent-authorities at Valsad on 24.11.1990 as a Casual Labourer. The petitioner was assigned the duties in the Air Conditioned Plant, Battery Room and in M.D.F. Section where the wiring work was assigned to be done by the petitioner. The petitioner was being paid the daily wages at the rate of Rs.37-70ps. as a daily rated casual labourer. The petitioner had continued to be on job till 5.4.1992.

2. It is pertinent to submit that during the course of his employment, on 24.4.1991, while the petitioner was doing the wiring work at the height of six feet at about 11.00 O'clock in the morning, he had fallen down and had received the fracture on the right thigh. Accordingly, he was hospitalised from 24.4.1991 to 6.5.1991. Thereafter, because of the heavy costs

involved in the treatment as indoor patient, the petitioner was discharged from the hospital because of his bad-financial condition on 7.5.1991 and at home, the petitioner was ~~bad~~-ridden from 7.5.1991 till 30.7.1991. On 01.8.1993 onwards, the petitioner reported for work, however, it may be pertinent to submit that no medical benefits were extended to the petitioner for being hospitalising the petitioner in telecom department hospital or ~~xxing~~ paying him the medical expenses involved by him due to the accident while on duty.

3. It is submitted that the petitioner was assigned the duties of wiring, falt detection etc. He was also doing the duties in the power room in case of any problem in the supply. The petitioner was also operating the generator and thereafter, he was rushing to the battery room and giving the direct connections by way of putting on the batteries installed in the power exchange. He was also assigned the duties in Air Conditioned plant alongwith the Techincian. He was also doing the work of cleanliness. The petitioner submits that his services were brought abruptly to an end without following the procedure under section 25(F) of the Industrial Disputes Act.

4. It is submitted that the petitioner has completed one year of services to become entitled under section 25(B) of the Industrial Disputes Act. Since he has completed one year of services, it was incumbent on the part of the respondent-authorities to follow the procedure under section 25(F) of the Industrial Disputes Act, however, without following any procedure

services of the petitioner were abruptly terminated <sup>orally on 5-4-1992
after cease work</sup>

A certificate showing the number of days worked by the petitioner in each month after his appointment on 24.11.1990 till 5.4.1992, is annexed hereto and marked as annexure-A/1. The petitioner has completed more than 240 days of service as required under section 25(B) of the Industrial Disputes Act in a given year deducting the hospitalisation period from 24.4.1991 till 6.5.1991 and thereafter he was bed-ridden and on 1.8.1991, he resumed his duties.

Annex.A/2

A certificate which is issued by the Haria Rotary Hospital, in respect of the hospitalisation of the petitioner and thereafter the bed-rest because of the fracture on the right thigh, is annexed hereto and marked as annexure-A/2. Therefore, the petitioner has to be continued on duty and or in other words, the period during which he was bed-ridden due to the accident while on duty, has to be computed when computing the period of 240 days of work for the purpose of section 25(B) of the Industrial Disputes Act.

Annex.A/2

5. It is respectfully submitted that the petitioner has continuously rendered the services for more than 240 days and so the procedure under section 25(F) is required to be followed. Since no retrenchment compensation was paid to the petitioner, the action on the part of the respondent-authorities is totally illegal, arbitrary, against the provisions of Section 25(F). Therefore, under the provisions of the Industrial Disputes Act, the petitioner has lodged a complaint with the Conciliation Officer and the

Conciliation Officer has issued the notices to the concerned authorities and a settlement was arrived at which is in English and that the petitioner was simply told that the authorities would take him on duties and the petitioner was simply asked to put his signature below the settlement. In fact, the petitioner never knew what were the contents in the settlement reached at and asked to be signed by the petitioner, and that the petitioner was told that he should report for duty on the next day. When the next day, the petitioner approached the respondent-authorities at Valsad for duty, he was given the assurance and to come and inquire after few days. Accordingly, a long period of more than three months has passed and till date the petitioner has not been given even a day's work as a result of which, the petitioner is without salaries. Therefore, it is submitted that the settlement is not a fair, reasonable and in accordance with the provisions of law. The settlement was reached under coercion and inducement. The petitioner was induced to put his signature under the inducement that he shall be assigned the work from the following day. In fact, till date no such work is assigned to the petitioner. When the petitioner contacted some concerned advocate, he was advised that the terms of settlement were nowhere provided to the effect that he will be assigned the work, but it is stated that he would be assigned the work as and when it may be available. Therefore, the terms of settlement are absolutely in contrast to the provision of Section 25(F) of the Industrial Disputes Act, that *prima-facie* goes to show that it is unfair and unjust settlement and the same is under challenge before Your Lordships it being not a settlement in the interest of justice.

and in the fairness and not a fair settlement, because no settlement can be a settlement without any breach of section 25(F). There is termination of services, which would render the action of the respondent-authorities to be illegal, null and void and the consequence would be re-instatement with the ^{not} full salaries. In that context, it would not be a settlement in the fairness. The terms and conditions which are stated in the settlement otherwise also go to show that the petitioner was provided with the job for not less than 20 to 25 days in a month or sometimes complete calendar days of a month, meaning-
thereby, from August-30, 1991 till 28.2.1992, the petitioner was given the work of all days, then how it can be said that he will be called if there is a work and would be given the work as per the sweet will. Therefore, that goes to show that the petitioner was required to be provided the job as was in the past and incorporation of term that as and when the work is available, is absolutely unfair settlement and is coercive that has been used and that the Conciliation Officer has not explained the terms and conditions of the settlement to the petitioner, though the petitioner was represented by the advocate, but even the advocate did not care to see that such terms and conditions are against the interest of the petitioner. In fact, by way of this settlement, the action of termination of the services has been strengthened by legalising with doing away the legality and propriety of the action, if it would have been sent to labour court for adjudication because by now it is a well settled position of law that if there is a violation of Section 25(F) of the Industrial Disputes Act, the re-instatement with full back-wages is a must. Therefore, the settlement which is annexed hereto and marked as annexure-A/3

is required to be held to be coercive, unfair, unreasonable, against the interest of the petitioner, and therefore, the same is required to be quashed and set aside by terminating the settlement and directing the respondent-authorities, to re-instate the petitioner into the services. The petitioner submits that the persons who have joined the department and have put up about 18 to 19 months of service have been made permanent. New persons after the termination of the services of the petitioner have also been taken and they are continued in the job. The petitioner submits that the persons who were taken on job alongwith the petitioner, they are continued into the services; they are Ramanbhai, Govindbhai, Shaileshbhai, another Ramanbhai, Sureshbhai etc. there are so many persons whose names are not known to the petitioner and till they are continued in the job who joined the services alongwith the petitioner. Four new persons have also been taken on job after the termination of the petitioner whose names are not known because he is not allowed to enter in to the premises.

6. The petitioner submits that when new persons are taken on job in clear violation of Section 25(H) of the Industrial Disputes Act because the aforesaid provision casts a duty to firstly call upon the old persons who have been retrenched, in that regard, nothing is done from the department.

VII. RELIEFS:

On the grounds stated above and those that may be urged at the time of hearing of this petition, the petitioner prays;

(A) Your Lordships may be pleased to hold and declare that the action on the part of the respondent authorities of orally terminating the services of the petitioner is in contrast to the provision of Section 25(F) of the Industrial Disputes Act, therefore, the same is illegal, unconstitutional and, therefore, null and void.

(B) Your Lordships may be pleased to hold and declare that the settlement of annexure-A/3 dated 30.6.1993 is not a fair, rational and legal settlement, but it is a settlement in which the signature of the petitioner has been obtained under coercion by inducing the petitioner to take him on job, the following day onwards. Therefore, the same may be declared to be against the provisions of law.

(C) Your Lordships may be pleased to direct the respondent-authorities to re-instate the petitioner into the services with the full backwages and to afford him the consequential benefits of continuity of services and all such benefits deeming as if the petitioner was continuing into the services.

7. Pending hearing and final disposal of the petition, Your Lordships may be pleased to direct the respondent-authorities to provide the work to petitioner and to pay him the salaries in accordance with the law.

8. The applicant has not filed any other petition in any other court including the Hon'ble Supreme Court of India with regard to the subject matter of this petition. The petitioner has no other alternative remedy available except to approach this Hon'ble Tribunal by way of this petition.

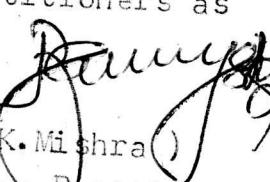
VIII. PARTICULARS OF THE POSTAL ORDER:

A) No. of the Postal Order: 801247883
B) Amount of the Postal Order: Rs 50/-
C) Date of Postal Order: 21/11/93
D) Name of the Post Office: H.C. Navrangpura

And for this act of kindness the petitioners as in duty bound shall for every pray.

Ahmedabad.

~~22~~ October 2, 1993.

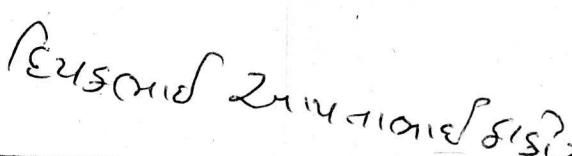

(R.K. Mishra)
Advocate for Petitioner.

VERIFICATION

I, Deepakbhai A. Thakor, aged about residing at ~~Kharvel~~ occupation - ~~Unemployed~~ herein, do hereby solemnly affirm and state that what is stated herein above in this petition is true to the best of my knowledge, belief and information and I believe the same to be true. The annexures are true copies of the documents of which they purport to be original.

Solemnly affirmed on this 2 day of ~~October~~, November, 1993, at Ahmedabad.


Identified by me
Clerk to the advocate
Mr. R.K. Mishra.


R.K. Mishra
Advocate for Petitioner.

- : C E R T I F I C A T E : -

This is certify that Shri Dipakbhai son of Aytabhai Thakor is being working in my office at G.I.D. Vapi (AUTO EXCHANGE INSTALLATION) since 21th May 1990 as casual labour. His attendance record as per our attendance register is given below.

Attendance record.

Statement showing the no. of days worked on MR etc in the following year.

| SL. No. | No. of days worked in each of the following months. | Years | | | | |
|------------|---|----------|----------|----------|----------|----------|
| | | 89 90 | 90 91 | 91 92 | 92 93 | 93 94 |
| 01. | April | | | 21 | 05 | |
| 02. | May | | | - | - | |
| 03. | June | | | - | - | |
| 04. | July | | | - | - | |
| 05. | Aug. | | | 30 | | |
| 06. | Sept. | | | 30 | - | |
| 07. | Oct. | | | 31 | | |
| 08. | Nov. | | 07 | 30 | | |
| 09. | Dec. | | 21 | 30 | | |
| 10. | Jan. | | 26 | 30 | | |
| 11. | Feb. | | 21 | 28 | | |
| 12. | March | | 21 | 19 | | |
| | Total | | 122 | 209 | 05 | 356 |

etc
Dipakbhai

Annexure- A-2
11
11387
No.



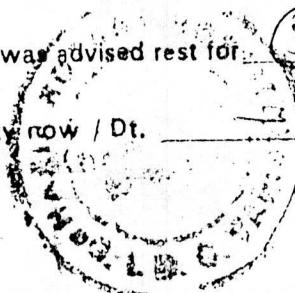
HARIA ROTARY HOSPITAL

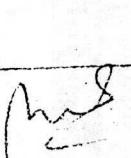
G. I. D. C., VAPI. Phone : 915, 1157

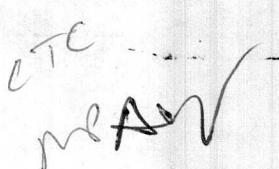
CERTIFICATE

Date 13-11-91

This is to Certify that Mr. / Mrs. Deepak Aytal Thakor
age 25 yrs resident of Dharampur employed in Vapi telephone
as _____ has been examined by me. He/She is / was Suffering from (R+) # I.T.
and is/was under treatment as O. P. D /Indoor Case. From Dt. 24-4-91
to Date 6-5-91 He/She is / was advised rest for 3 months _____ days
from Dt. 7-5-91 He/She is for duty now / Dt. _____
O.P.D. Case No. 91/3228
Indoor Case No. 911361


Medical Officer




CTC
MLAN

MEMORANDUM OF SETTLEMENT under Section 12(3) of the Industrial Disputes Act 1947 arrived at on 30.6.1993 before the Assistant Labour Commissioner (Central), Ahmedabad between the Management of District Telecommunications, Balsad (Gujarat) and their workman Shri Dipakbhai Ayatabhai Thakore, Post Kharwel, Tal. Dharampur, Dist. Valsad.

PRESENT :

1. Shri A.B.Sharan,
Asstt.Engineer (Administration)
O/o.The Telecom District Manager,
Valsad (Gujarat).

On behalf of the Workman.

1. Shri Dipakbhai Ayatabhai Thakore,
Post Kharwel,
Tal.Dharampur,
Dist.Valsad. (workman himself)

SHORT RECITAL OF THE CASE.

WHEREAS Shri Dipakbhai Ayatabhai Thakore raised an industrial dispute against the Asstt.Engineer (Phones) Cross Bar Exchange, New Telephone Exchange, GIDC Vapi-396 193, under control of T.D.M Valsad (Gujarat), demanding for the reinstatement of their services in the office of Assistant Engineer (Phones) Vapi, vide their representation dated 22.2.1993 which was received in the office of Asstt.Labour Commissioner (C), Ahmedabad on 23.2.93. A copy of the said representation is at Annexure-I.

WHEREAS on 2 12th April, 1993 the office of the Asstt.Labour Commissioner (C), Ahmedabad issued conciliation notice vide their letter No. ALI/AJC-II/ID/8(12)/93 to the parties requesting them to attend the joint discussion/conciliation proceedings on 29.4.1993. Accordingly conciliation proceedings held on 29.4.1993, 25.6.1993, & finally on 30.6.1993. Various suggestions were made to the both parties.

WHEREAS eventhough the department of Telecom has banned the employment of casual labour in the Department, some times due to exigencies of work, casual labour on daily wages for particular jobs for a period not warranting liability on the department is resorted to. However, both parties have agreed to settle this issue on the following terms and conditions.

1. The workman will be allowed to work casually in the same status 'as a casual labour' on the basis of as and when work is available in local unit at Vapi (other than exchange premises) on daily wages as fixed by DOT time to time without entailing any liability on the department.
2. The Management will inform in writing to the workman as and when required for doing the casual nature of work. They will leave their correspondance address with S.O.O.P. Vapi.
3. In case of permanent vacancy in the department, workman can also apply if eligible for any post as per recruitment rules and instructions of DOT New Delhi from time to time.

contd.....2.

CTC

M. D. B.

Dipakbhai K. T.

4. The workman will have no right to claim the wages etc. for the past period. Also they have agreed that they will not file any complaint regarding their wages and other benefits before any authority/court/land of law in future.

In view of above, the workman have withdrawn the dispute raise before Astt. Labour Commissioner (Central) Ahmedabad.

On behalf of the Management

In behalf of the workman.

Pass/Recd/5076/93
(A.B. SHAIKH)
Astt. Engineer (Adm.)
O/o. The T.D.B. Valsad.

Dipakbhai A. Thakore
(DIPAKBHAI AYPAKHAI THAKORE)

Witnesses.

1. (SURESH V. K)
Stenographer
O/o. R. L. C. (C)
Ahmedabad.

M. Shakti 3/16

2. (M. IJBAL A. SHAIKH)
Advocate
D/h. Relax Hotel
Opp. Advance Cinema
Jan Sahib Gali, Tel. Bhawan,
Ahmedabad.

G. L. Tandeli
3. (G. L. TANDEL)
District Secretary,
N. U. T. E. C. Class Union,
Valsad (Gujarat).

Place : Ahmedabad
Date : 30.6.1993.

Before me

(G. B. PARMIT)
Astt. Labour Commissioner (Central)-II
Ahmedabad.

Compilition Officer

*CFC
RJ
AW*

15
BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

-----/ -@-----

ORIGINAL APPLICATION NO. 656 OF 1993

Shri Dipakbhai I.Thakor Applicant

v/s.

The Union of India & ors. Respondents

Written Reply on behalf of
the respondents.

I, B. S. Shinde working
as A.E (Adar) Vadod with respondent No. 2
herein do hereby state in reply to the above application
as under:

1. That I have perused the relevant papers
and files pertaining to the above application
and I am conversant with the facts of the case
and I am authorised to file this reply on behalf
of the respondents.

2. At the outset I say and submit that
no the application is misconceived, untenable
and requires to be rejected.

Presented by
Bharat Adarsh Adarsh Karsan
today 20-1-94
before the court
Presented by
Mr. Akil Kurshi
At
(2+0=2)

3. At the out set I say and submit that no part of the application shall be deemed to have been admitted by the respondents unless specifically stated so herein. All the statements, averment s and allegations contained in the application shall be deemed to have been denied by the respondents unless specifically admitted by me herein.

4. In reply to para-III of the application I say that according to the settlement, the applicant was clearly informed tht the management will infom in writing as and when required for doing casual nature of work and that he may leave ~~thexx~~ the address for correspondence with the SDOP Vapi and it is clearly mentioned as per para-1 of the settlement that he will be allotted only external work. As such question of violation of the provi- sions of Sec.25F of the Industrial Disputes Act, does not arise.

5. In reply to paras-IV and V of the appli- cation, I say that this Hon'ble Tribunal has no jurisdiction to entertain the application. I deny that the application is filed within the period of limitation.

6. In reply to para-VI.1 of the application I say that the respondents have no comments to offer.

7. In reply to para-VI.2 of the application I say that the applicant has not claimed medical expenses for his hospitalisation at the time of settlement with the administration.

8. In reply to para-VI.3 of the application I say that question of following the procedure under Sec.25F of the Industrial Disputes Act does not arise as according to the settlement took place between the administration it was agreed that he would be called for work as and when required for doing the casual nature of work in the external network.

9. In reply to para-VI.4 of the application I say that as per the settlement, the department is supposed to call the applicant, if any casual nature of work is to be executed. Hence the question of termination of his job does not arise.

10. In reply to para-VI.5 of the application I say that the settlement took place between the management and the applicant and it was clearly conveyed in writing. The contents of the settlement were clearly understood by all the applicants in the regional language through their lawyer and also through their representatives who were witnessed by the Asstt.Labour Commissioner and the same were agreed to by the applicant also.

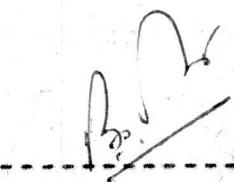
The applicant has given names of casual labourers who have been given job, but in this case it is confirmed from the External Officer Vapi that so far no casual labourers are engaged by him. As external works are being carried out by the contractor according to the existing policy of the department there is no question of engaging any such persons.

11. In reply to para-VI.6 of the application I say that no casual labourer is engaged for external work. There is no question of calling for old casual labourers who have been retrenched.

12. In view of what has been stated above I say and submit that the application is totally misconceived, untenable and the applicant is not entitled to any relief, either interim or final, and this Hon'ble Tribunal be pleased to reject the application forthwith with costs.

Ahmedabad,

Dt. 20-1-1994.



Verification

I, B. S. Dheviwala
 working as A.E (Admn) Valsad
 with respondent No. 2 herein

and state that what is stated above is true to my knowledge, information and belief and I believe the same to be true. I have not suppressed any material facts.

Ahmedabad ,

Dt. 20-1-1994.


A. E. Patel
Valsad