

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

**O.A. NO. 668 OF 1993**

**~~Tax NO.~~**

DATE OF DECISION 12-5-1994

Shri Bharat R. Vyas, Petitioner

Mr. P.H. Pathak, Advocate for the Petitioner (x)

Versus

Union of India & Ors. Respondent s

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

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The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

The Hon'ble ~~Mr.~~ Dr. R.K. Saxena, Judicial 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 ?

Bharat R. Vyas,  
Brahma Society,  
Surendranagar.

.... Applicant.

(Advocate: Mr.P.H. Pathak)

Versus.

1. Union of India  
Notice to be served through  
General Manager  
Telecommunication Deptt  
Navrangpura, Ahmedabad.

2. Telecom Dist. Engineer  
New Telecom Building  
Nr. Alankar Cinema  
Surendranagar.

.... Respondents.

(Advocate: Mr. Akil Kureshi)

J U D G M E N T

O.A.No. 668 OF 1993

Date: 12-5-1994.

Per: Hon'ble Mr. V. Radhakrishnan, Admn. Member.

Heard Mr. P.H. Pathak, learned advocate for the applicant and Mr. Akil Kureshi, learned advocate for the respondents.

2. This application under section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant, a casual labourer seeking the reliefs against the respondents that the verbal termination of the applicant with effect from 1st July, 1986, passed by respondent No.2, be declared as illegal, invalid and inoperative in law and the same be quashed and set aside and the respondents be directed to reinstate the

..... 3/-

applicant with continuity of service with full backwages. It is also prayed by the applicant that the respondents be directed to regularise the services of the applicant. It is the case of the applicant pleaded in the application that he was working as a casual labourer under respondent No.2, namely, Telecom Dist. Engineer, Telecom Department, Surendranagar, since July 1985, but his services were verbally terminated the respondent No.2 with effect from 1st July, 1986 without following the due process of law. It is alleged in the application that the applicant's name was sponsored by the Employment Exchange and he was selected and taken on duty by the respondents. It is alleged that thereafter the applicant continued to work under the respondents until 1st July, 1986. It is alleged that the respondents terminated the service of the applicant in flagrant violation of the Industrial Disputes Act, 1947, as no reason whatsoever was given and neither he was paid notice pay or retrenchment compensation. Hence he has prayed for quashing of the termination order and his reinstatement with all consequential benefits.

3. It is alleged that after termination of the services of the applicant, he was informed that he will be given work and should enquire about the same, but no~~w~~ work was given to him. In 1988, the applicant was

informed by the respondent No.2 that his case will be decided after judgment was delivered in S.P.Zala's case. The applicant was waiting for the judgment and after coming to know that Zala's case was decided in his favour, he gave representation to the respondent, Annexure A-1. No reply was received on the representation and advocate notice was issued on 30.3.1993 for extending the benefits of Zala's case judgment to the applicant, Annexure A-2. No reply was received for this. It is the contention of the applicant that time and again he approached the respondents for extending the benefit of Zala's case judgment in his favour, but so far he has not received any reply.

4. The contention of the applicant is that the respondents department is an industry and the respondents are required to comply the provisions of Section 25F of the I.D.Act in case of retrenchment. This <sup>is</sup> also ~~rejected~~ <sup>raised</sup> that they have to follow other provisions with Section 25G and Rule 77 of the Rules and publish seniority list before retrenchment. It is alleged that no seniority list was prepared and employees were retrenched by pick and choose policy. The applicant has also mentioned judgment of the Hon'ble Supreme Court in AIR 1987 SC page 2342 wherein the respondents department are directed to frame scheme of regularisation

of employees  
/who had completed 360 days of service. The applicant is  
covered by said scheme.

5. It is the contention of the applicant that his  
case is on all fours <sup>with</sup> ~~that~~ of S.P.Zala and hence he is  
required to be extended the benefits of that judgment  
wherein he was reinstated with full backwages. Hence  
he has asked for following reliefs:

- "(A) Be pleased to declare the inaction on the  
part of the respondent No.2 not reinstating  
the applicant and granting the benefits of  
judgment of the Hon'ble Tribunal in case of  
S.P.Zala, as arbitrary, illegal and be  
pleased to quash and set aside and direct  
the respondents to reinstate the applicant  
in service with all consequential benefits.
- (B) Be pleased to declare that there is no  
justification available to the respondents  
in delaying awarding reinstatement to the  
applicant particularly in light of the  
reinstatement of the juniors to the applicant  
and judgment of the Hon'ble Tribunal in  
the case of similarly situated employee.
- (C) Be pleased to direct the respondents to  
reinstatement the applicant in service with all  
consequential benefits and consider the  
case of the applicant for regular absorption  
in service.
- (D) Any other relief to which the Hon'ble  
Tribunal deems fit and proper in interest  
of justice together with cost."

6.. The respondents have filed reply. The conten-  
tion of the respondents is that the applicant has  
approached the Tribunal after a period of more than

6½ years of retrenchment and hence <sup>it is</sup> time barred. It has been stated that the respondents had engaged the applicant for specific work and for specific period and on completion of that establishment of installation, there was no further work for him in the division and hence the termination was in order. It has been stated that the department had to discontinue the services of the applicant as per the policy decision of the department. The respondents have denied that the applicant had approached them ~~for~~ sent any representation. The respondents also denied that the Telecom department is an industry.

7. Mr. Pathak, learned advocate for the applicant contended that the case of the applicant being exactly similar to that of S.P.Zala deserves similar relief. He argued that policy decision of the department could not lead to violation of statutory provision of the I.D.Act. In so far as the delay is concerned, he explained that the applicant was acting in good faith and approaching the department time and again for relief which was not given even after decision in Zala's case. However, he had agreed at the time of admission that the applicant will forego backwages and relief may be limited to reinstate with backwages from the date of filing the O.A.

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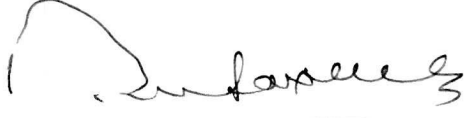
8. Mr. Akil Kureshi, learned advocate for the respondents submitted that this application is barred by limitation as he had not filed the application within one year from the date of his oral termination.


9. In the instant case it is not in dispute that applicant was in continuous service from the date of his appointment i.e., 1st July 1985 till 30th June, 1986. It is also not in dispute that no notice contemplated under section 25F of the I.D. Act which given to the applicant nor any retrenchment compensation contemplated under section was paid to the applicant at the time of his retrenchment. From the facts apparent on record it is clear that the applicant was in continuous service for more than 240 days in the year preceeding the date of his termination and therefore terminate the service orally amounted to violation of Section 25F of the I.D. Act. We respectfully follow the various judgments of this Bench including that of O.A. 579/88, S.P. Zala V/s. Union of India & Ors., as it has been already laid down by decisions of several Tribunals including this Bench that the Telecom department is an industry and the persons working under department is a workman under the provisions of the Industrial Disputes Act. Admittedly, in the instant case the procedure under

section 25 F of the I.D. Act is not followed and the oral termination made by the respondents is <sup>in</sup>complete violation of Section 25 F and therefore, the impugned oral termination is illegal and deserves to be quashed and set aside. Hence we pass the following order.

O R D E R

The order of oral termination passed by respondent No.2, terminating the services of the applicant with effect from 1st July, 1986 is quashed and set aside. The respondents are directed to reinstate the applicant in service and pay him backwages from 9-11-1993, within a period of one month from the date of the receipt of this order. The respondents are also directed to consider the case of the applicant for regularisation as per his seniority and as per rules. No order as to costs.

  
(Dr. R.K.Saxena)  
Member (J)

  
(V.Radhakrishnan)  
Member (A)

vtc.