

CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~
AHMEDABAD BENCH, AHMEDABAD

O.A No. 725/93
~~F.A. No.~~

#98

DATE OF DECISION 28-3-1994

Shri Kishanbhai G. Parmar Petitioner

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

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM .

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

The Hon'ble Mr. K. Ramamoorthy 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

Shri Kishanbhai Ganeshbhai Parmar
26, Krishnapark Society,
Surendranagar.

: Applicant

(Advocate: Mr.P.H.Pathak)

Versus

1. Union of India
Through:
General Manager,
Telecommunications Deptt.
Navrangpura, Ahmedabad.
2. Telecom District Engineer,
New Telecom Building,
Nr. Alankar Cinema,
Surendranagar-360001.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

IN

OA/725/93

Date: 28.3.1994

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

: Vice Chairman

This O.A. is admitted today and is also taken up for hearing today with the consent of the learned counsels of both the sides.

2. The applicant, who was employed as casual labourer in the Telecommunications Department, challenges the oral termination of his employment alleged to have been effected on 15.10.1988 as illegal and void on the ground of the same being in contravention of the requirements of Section 25F of the Industrial Disputes Act.

3. The applicant has pleaded that he had put in more than 240 days of service ^{in one year} prior to the date of termination of his employment i.e. 15.10.88 and hence his employment could not have been terminated without giving him one month's notice or without paying him one month's salary in lieu of notice and without paying him retrenchment compensation as required by Section 25F of the

Industrial Disputes Act. In support of his claim that he had completed more than 240 days of service during the relevant period, the applicant has produced his service card at Annexure-A.

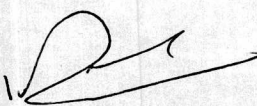
4. In the reply filed by the respondents, it is not disputed that the applicant was employed as casual labourer and that he had completed more than 240 days of service prior to 15.10.1988 ^{during the relevant period.} The respondents have also not denied that the applicant was not given any notice or notice pay or retrenchment compensation as provided for by Section 25F of the Industrial Disputes Act. It is the version of the respondents that Section 25 F of the Industrial Disputes Act was not attracted to the facts of the present case as the applicant was engaged on a casual, purely temporary basis for a particular work and on the completion of that work his services were terminated and, that being so, he was not entitled to claim the protection of Section 25 F of the Industrial Disputes Act. The respondents have also not challenged the service card produced by the applicant at Annexure A which clearly shows that he had completed more than 240 days of work in the year preceding the date of termination.


5. Since the applicant was employed as a casual labourer and since he had completed more than 240 days of work, during the year preceding 15-10-1988, the applicant could not have been retrenched for any reason whatsoever without giving him one month's notice or wages in lieu of the notice and also without paying him prescribed retrenchment compensation as provided for by Section 25 F of the Industrial Disputes Act. Since ~~these~~ requirements of Section 25 F of the Industrial Disputes Act were not

fulfilled in this case, we hold that the termination of the applicant as illegal and void and of no effect whatsoever.

6. The applicant must, therefore, be given the relief of reinstatement with continuity of service. However, the question is as to whether the applicant should be awarded any back-wages. As already mentioned, the employment of the applicant is terminated on 15-10-1988 and thereafter he has filed the present O.A. on 10-12-1993, and after the filing of the present O.A., he has filed M.A. 117/94 on 10-2-1994 for condonation of delay. In these circumstances, we hold that this is a fit case where the applicant should not be awarded any back-wages.

7. In the result, the application is allowed. The oral termination of the applicant's employment is hereby quashed and set aside as being illegal and void ab initio and the respondents are directed to reinstate the applicant as casual labourer within two weeks hereof with all consequential benefits except back-wages till the date of this order.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman.

a.a.b.