

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

C.A.36/96 in

O.A. NO. /668/93**T.A. NO.**DATE OF DECISION 3-6-1996Bharat R.Vyas

Petitioner

Mr.P.H.Pathak

Advocate for the Petitioner (s)

Versus

Union of India & ors.

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 ?

ND

Bharat R.Vyas,
Brahma Society,
Surendranagar.

Applicant

Advocate Mr.P.H.Pathak

versus

1. Shri N.K.Mangla
General Manager,
Telecommunication Department,
Mr.Gujarat High Court,
Ahmedabad.
2. Shri M.J.Dhodiya(H.R.D.),
Executive Engineer,
Telecommunication Department,
Surendranagar.

Respondents

Advocate Mr.Akil Kureshi

ORAL ORDER

C.A.36/96 in

O.A.668/93

Date: 3-6-1996

Per Hon'ble Shri N.B.Patel

Vice Chairman

Mr.Kureshi states that instructions from the Department are that the main part of the judgment is already implemented by reinstating the applicant and paying him back-wages and what might now remain to be done may be to consider the question of according to him temporary status and paying him bonus. Mr.Kureshi states that this part of the judgment and if there are any other parts left to be complied with even now, the same shall be done within a period of 4 weeks from today. In view of

this statement, the present proceedings are closed and notice is discharged but with liberty to the applicant to ask for revival of the proceedings, if there is any difficulty. No order as to costs.

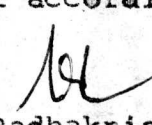
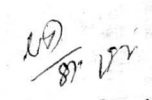
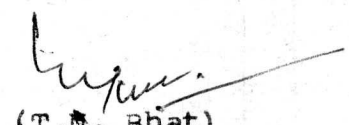


(V.Radhakrishnan)
Member (A)



(N.B.Patel)
Vice Chairman

*ssh

Date	Office Report	ORDER
8.12.96		<p><u>Note 11/96</u></p> <p>In view of the facts mentioned in Note 11/96, C.A. ^{stand}revived Adjourned to 8.1.97.</p> <p>Note 11/96 stands disposed of accordingly.</p> <p> (V. Radhakrishnan) Member (A)</p> <p>vtc.</p>
8.1.97	<p>Notice issued on 7/1/97 RPAD awaiting.</p> <p>1282</p>	<p>The Tribunal by its order dated 18.12.96 had revived the Contempt Application but notice has not yet been issued.</p> <p>Issue notice to the respondents returnable on 13.2.1997.</p> <p> (V. Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
13.2.97		<p>Mr. Akil Kureshi appears appears on behalf of the respondents, let ^uthem file the Vakalatnama. He seeks and ^uallowed two weeks' time to file the reply on behalf of the respondents. The C.P be listed on 10.3.1997.</p> <p> (T.N. Bhat) Member (J)</p> <p>vtc.</p>

Date	Office Report	ORDER
10.3.97		<p>At the request of Mr. Pathak, adjourned to 17.3.1997.</p> <p>(V.Radhakrishnan) Member (A)</p> <p>vtc.</p>
17.3.97		<p>At the request of Mr. Kureshi, adjourned to 10.4.1997.</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
10.4.97		<p>Mr. Kureshi states that he has been instructed to submit that the complainant had been confirmed temporary status and the Department would pay him financial consequential benefits on account of increments, bonus etc. He prays for time to file an affidavit to that effect.</p> <p>Adjourned to 5.5.1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>vtc.</p>
5/5/97		<p>Mr. P.H.Pathak has filed sick note. Mr. Kureshi has filed leave note. Adjourned to 11th July 1997.</p> <p>(T.N. Bhat) Member (J)</p> <p>(V.Ramakrishnan) Vice Chairman</p> <p>pmr</p>

Office Report

ORDER

11.7.97

Mr.Pathak present for the applicant.
Mr.Kureshi prays for time for fully compliance of the Tribunal's order. Adjourned to 8.8.97.

(V.Ramakrishnan)
Vice Chairman

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8.8.97

Mr.Kureshi files affidavit in reply and serves a copy on Mr.Pathak. He also prays ~~for~~ for some more time to indicate the position regarding the question of grant of regularisation to the applicant with effect from 1.4.1996. Adjourned to 1.9.97.

(T.N.Bhat)
Member (J)

(V.Ramakrishnan)
Vice Chairman

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1.9.97

Mr. Kureshi prays for further time to indicate the position regarding the grant of regularisation. Mr. Pathak present. Adjourned to 19.9.1997.

(T.N. Bhat)
Member (J)



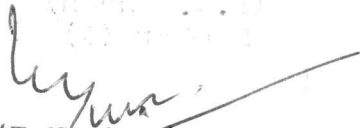



(V.Ramakrishnan)
Vice Chairman

19.9.97

At the request of Mr. Kureshi, adjourned to 13.10.1997.

(T.N.Bhat)
Member (J)

(V.Ramakrishnan)
Vice Chairman

Date	Office Report	ORDER
13.10.97		<p data-bbox="577 285 1542 929">Mr. Kureshi states that the direction of the Tribunal had been complied with. However, the present controversy relates to the date of regularisation which according to the respondents will be only from December 1993 when the relevant scheme took effect. The earlier scheme would not cover the applicant as he was not a project casual labour. Mr. Kureshi prays for a short adjournment to file a detailed affidavit indicating their position. Adjourned to 19.11.1997.</p> <div data-bbox="577 929 1451 1136"> <div>  (T.N. Bhat) Member(J) </div> <div>  (V. Ramakrishnan) Vice Chairman </div> </div> <p data-bbox="567 1221 649 1251">vtc.</p>
11.97		<p data-bbox="556 1303 1486 1483">Seen sick note of Mr. Pathak. Mr. Kureshi says that he will file detailed affidavit to-day in the Registry. Adjourned to 12.12.97.</p> <div data-bbox="664 1483 1436 1676"> <div>  (T.N. Bhat) Member (J) </div> <div>  (V. Ramakrishnan) Vice Chairman </div> </div> <p data-bbox="555 1767 617 1798">pmr</p>
2.12.97		<p data-bbox="555 1844 1480 2140">We find that the detailed affidavit has referred to in the order dated 19.11.97 has been filed in the Registry on the same day itself. A copy has been given to Mr. Pathak. Adjourned to 15.1.98.</p> <div data-bbox="525 2140 1440 2341"> <div>  (P.C. Kannan) Member (J) </div> <div>  (V. Ramakrishnan) Vice Chairman </div> </div>

Date	Office Report	ORDER	Office Report	Date
15.01.98	<p>Mr. Kureshi has filed leave note. Mr. Pathak not present. However, the present controversy relates to the date of regularisation which according to the respondents will be (T.N. Bhat) December 1993 when the relevant scheme took effect. The earlier scheme would not cover the applicant as he was not a project casual labour. Mr. Kureshi prays for a short adjournment to file a detailed affidavit indicating their position. Adjourned to 19.11.1997.</p>	<p>Mr. Kureshi has filed leave note. Mr. Pathak not present. Mr. Pathak prays for time to make submission on the further affidavit of the respondents dated 19.11.97. Adjourned to 16.3.1998.</p>	<p>Adjourned to 12.02.98.</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p>	13.10.97
12.2.98	<p>Mr. Kureshi not present. Mr. Pathak prays for time to make submission on the further affidavit of the respondents dated 19.11.97. Adjourned to 16.3.1998.</p>	<p>Mr. Kureshi not present. Mr. Pathak prays for time to make submission on the further affidavit of the respondents dated 19.11.97. Adjourned to 16.3.1998.</p>	<p>Mr. Kureshi not present. Mr. Pathak prays for time to make submission on the further affidavit of the respondents dated 19.11.97. Adjourned to 16.3.1998.</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p>	
16.3.98	<p>Heard both sides. Orders reserved.</p> <p><i>[Signature]</i> (P.C. Kannan) Member (J)</p>	<p>Heard both sides. Orders reserved.</p> <p><i>[Signature]</i> (P.C. Kannan) Member (J)</p>	<p>Heard both sides. Orders reserved.</p> <p><i>[Signature]</i> (V. Ramakrishnan) Vice Chairman</p>	
31-3-98	<p>Indgement pronounced today in open court</p> <p><i>[Signature]</i> 31.3.98 Co.I.</p>	<p>Indgement pronounced today in open court</p> <p><i>[Signature]</i> 31.3.98 Co.I.</p>	<p>Indgement pronounced today in open court</p> <p><i>[Signature]</i> 31.3.98 Co.I.</p>	

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

C.A. No. 36/96 in

O.A.NO. 668/93
T.A.NO.

DATE OF DECISION

31-3-98

Shri Bharat R. Vyas

Petitioner

Mr. P.H. Pathak

Advocate for the Petitioner [s]

Versus

Union of India and Others

Respondent

Mr. Akil Kureshi

Advocate for the Respondent [s]

CORAM

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 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. Shri N.K. Mangla,
General Manager,
Telecommunication Deptt.,
Near Gujarat High Court,
Ahmedabad.

2. Shri M.J. Dhodiya (H.R.D.),
Executive Engineer,
Telecommunication Deptt.,
Surendranagar.

... Respondents

(Advocate: Mr. Akil Kureshi)

JUDGMENT

C.A./36/96 in OA/668/93

Dated: 31-3-98

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The complainant herein has alleged that the respondents had not carried out the directions of the Tribunal in OA/668/93.

2. The present complainant was working as Casual Labour in the Telecom Department and had filed an OA before this Tribunal challenging his termination from service. The Tribunal disposed of this OA by its order dated 12.5.94 allowing the application and holding the termination of the employment as void ab initio. The relevant order is reproduced:

"The order of oral termination passed by respondent No.2, terminating the services of the applicant with

Contd..3/-

effect from 1st July, 1986 is quashed and set aside. The respondents are directed to reinstate the applicant in service and pay his 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."

3. We have heard Mr. Pathak for the complainant and Mr. Akil Kureshi for the respondents.

4. Pursuant to the orders of the Tribunal, the complainant has been reinstated in service with effect from 19.7.94, and backwages amounting to Rs.13,846/- was paid on 5.9.84 for the period between 9.11.93 to 18.7.94. Initially the Tribunal had disposed of an earlier Contempt Application vide its order dated 3.6.96 holding that the main part of the judgment is already implemented giving liberty asking for revival of proceedings, if there was any difficulty. The complainant was conferred with temporary status with effect from 17.12.93 by order dated 7.4.97 and consequential monetary difference was paid to the tune of Rs.2366/- and bonus amount of Rs.3266/- totalling to Rs.5632/- to the applicant. The only controversy which needs to be resolved is the stand of the Department that he is entitled to be given temporary status only with effect from 17.12.93. The respondents vide their affidavit dated 19.11.97 had given reason as to why this has been done and the relevant portion is reproduced:

"I say that the applicant has been granted temporary status with effect from 17.12.1993 by order dated 30.1.97. I say that earlier Department of Telecom had scheme for grant of temporary status and regularisation of casual labourers called Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989. This scheme was applicable to those casual labourers who were engaged prior to 30.3.1985 and who were still in service on that date. The present applicant did not fulfil these requirements and he was thus not covered under the said scheme for grant of T.S. and for regularisation. However, subsequently by O.M. dated 17.12.1993 it was provided that all those casual mazdoors who were engaged by the Circles during the period from 31.3.1985 and 22.6.1988 and who are still continuing for such works be brought under the scheme subject to certain conditions laid down therein. A copy of the said O.M. dated 17.12.93 is produced at Annexure R1. It is submitted that the applicant was not covered under the earlier scheme of 1989 and is entitled to be considered for temporary status only under the new O.M. dated 17.12.1993. It is for the first time by the said O.M. dated 17.12.1993 the applicant and such other similarly situated casual labourers have been brought under the scheme for consideration for grant of T.S. The applicant is therefore entitled to be considered for temporary status w.e.f. 17.12.93 and not earlier, as prior to 17.12.93, there was no scheme for grant of T.S. applicable to the applicant. The applicant's demand for grant of T.S. earlier than 17.12.1993 is not justified for the

reason that it was for the first time by circular of 17.12.93 that he was brought under the scheme for consideration for grant of T.S. and there is nothing in the said circular to suggest that any retrospective effect is to be given by predating the temporary status."

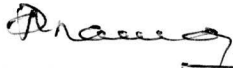
5. Mr. Pathak submits that this action is not regular as once the order of 17.12.93 was issued, persons who are engaged after 30.3.95 but prior to 22.6.88 should be placed on the same footing as those engaged earlier to 30.3.95 and it should be deemed that they have also come within the purview of the 1989 scheme and on completion of 240 days they were entitled to the grant of temporary status.

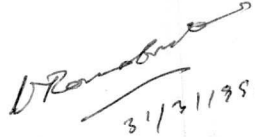
6. We find that this issue has been raised in another OA before this Tribunal (OA/508/97 S.P. Zala vs. UOI). The applicant in that OA had also secured similar orders and the Department initially granted him temporary status with effect from 1.10.89. However, later on they held it to be a mistake and modified the date of conferment of temporary status to 17.12.93. This action of postponing the date of temporary status has been challenged in that OA. The Tribunal by its interim order had restrained the Department from modifying the date of grant of temporary status but the main issue regarding the date on which the such persons would be eligible for grant of temporary status is still to be adjudicated.

7. In the circumstances, we hold that the Department has conferred temporary status to the complainant in the manner they have understood the provisions of the order

dated 17.12.93, and there is no wilful disobedience of the orders of this Tribunal. However, if the Tribunal comes to a finding in OA/508/97 or in any other similar application that such persons are entitled to be conferred with temporary status not necessarily with effect from 17.12.93 but from an earlier date, the benefit of any such order shall be extended to the present complainant within two months from the date on which such orders are received by the Department.

8. In the light of this position, we dismiss the Contempt Application and discharge the alleged contemnners.


(P.C. Kannan)
Member (J)


31/3/98
(V. Ramakrishnan)
Vice Chairman

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