

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 445/91 &
~~XXXXX~~ OA-484/91 122

DATE OF DECISION 19-12-1991

PM Abdul Jabbar & 5 others Applicant (s) in OA-445/91

Ahammed.P.P. Applicant in OA-484/91

M/s PK Abnbacker & Shafik Advocate for the Applicant (s)

Versus

Union of India & another Respondent (s)

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s) in both
the cases

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

Since the facts and question of law involved in these two cases are identical, they are being heard and disposed of by this common order.

2. The applicants in OA-445/91 were after the due process of selection appointed as Casual Mazdoors in the Satellite Communication Project, Cochin w.e.f. 16.2.1989. The applicant in OA-484/91 was similarly appointed on the same date. They are aggrieved by a communication which is at Annexure-A5 in OA-445/91 and Annexure-A4 in OA-484/91 proposing to terminate their services w.e.f. 1.4.1991. Claiming that the proposed termination of their services after their continuance for more

than 240 days without complying with the ^{provisions of} Chapter V-A of the Industrial Disputes Act is illegal, ^{and} unsustainable and praying that the respondents may be directed to retain the applicants in casual employment and to consider ~~to them~~ them for regularisation in Group 'D' service in their turn, the applicants have filed these two applications.

3. These two applications have been resisted by the respondents on the ground that the applicants who have been engaged for specific purposes of erection of the satellite station, have no right to continue after the erection has been completed.

4. The applicants have filed rejoinders and have produced documents to show that even after the erection of the satellite station is over, work of the same nature as they have been doing is still available.

5. We have heard the learned counsel on either side and have also carefully gone through the documents produced. The fact that the applicants have been continuously engaged beyond 240 days since their first engagement and that they are still continuing in service as casual mazdoor are beyond dispute. The averment in the rejoinder that the same nature of work as the applicants had been doing is still available is disputed by the learned counsel for the respondents. He submits that the work which is available presently is not in the project, but in the maintenance wing. Be that as it may, whether in project or in maintenance, a workmen who has been working for more than 240

days continuously can be retrenched only after due compliance with the provisions of the Section 25-F of the I.D. Act which mandate that a notice of one month should be issued and that compensation calculated @ 15 days wages per year should be paid simultaneously with the notice of retrenchment. There is no case for the respondents that such notice has been issued and that such compensation has been paid. In this circumstances, the claim of the applicants that the proposed termination of their services is violative of the provisions of Chapter V.A of the I.D. Act will amply established.

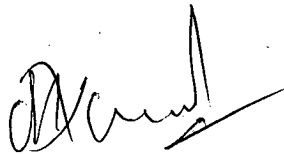
6. In the conspectus of facts and circumstances, we allow these two applications OA 445/91 and OA 484/91 with the following orders/directions:

a) The respondents in OA 445/91 are restrained from terminating the services of the applicants therein as proposed in Annexure-A5 order in that application without complying with the provisions of Chapter V.A of the I.D. Act,

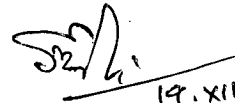
b) The respondents in OA 484/91 are restrained from terminating the services of the applicant therein as proposed in Annexure-A4 order without complying with the provisions of Section 25-F of the I.D. Act,

c) The applicants should be continued to be engaged as long as work is available in preference to juniors and outsiders and the question of their absorption in regular service should be taken up at the appropriate time,

d) There is no order as to costs.



(A.V.HARIDASAN)
JUDICIAL MEMBER


19.XII.91

(S.P.MUKERJI)
VICE CHAIRMAN

19.12.1991