

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI
NEW BOMBAY BENCHXXXXXX
T.A. No. 142/87

198

DATE OF DECISION 17.3.1988Shri Vikas Deshmukh and 5 others PetitionersMr.L.M.Nerlekar

Advocate for the Petitioner(s)

Versus

Union of India through General Mana ^{Q.B.R.} Respondents
Bombay V.T. and another.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice Chairman

The Hon'ble Mr. P.Srinivasan, Member (A)

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

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

TR.A.NO. 142/87

Mr. Vikas Deshmukh,
Gorane Chawl, Matru Chhaya Niwas,
Room No. 1, Karnik Road,
Chickenghar, Kalyan, Thane.
and five others.

Applicants

v/s.

Union of India,
through the General Manager,
Central Railway, Bombay V.T.

2. Assistant Mechanical Engineer
(Power), Central Railway,
Kurla.

Respondents

CORAM: Hon'ble Vice Chairman B C Gadgil
Hon'ble Member (A) P Srinivasan

Appearances :

Mr. L. M. Nerlekar
Advocate
for the Applicants

Mr. S. K. Nair
Head Clerk of the
Central Railway
for the Respondents

ORAL JUDGMENT

Dated: 17.3.1988

(PER: B C Gadgil, Vice Chairman)

Writ Petition No. 1214/85 of the file of Judicature
at Bombay is transferred to this Tribunal for decision.

2. The applicant was employed as casual Khalasi in January 1984 by the Central Railway. His services were terminated on 11.1.1985. The main grievance of the applicant is that such termination is bad as the provisions of the Section 25 of the Industries Dispute Act have not ..2/

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been followed. The applicant, therefore, prays for reinstatement in service with all consequential benefits.

3. The Respondents have filed their reply. The main contention can be reproduced as follows : "I say and submit that since the sanction of the posts expired on 10.1.1985 and as such the Petitioners could not be continued further and the Petitioners services were accordingly terminated with effect from 11.1.1985 by the Loco Foreman, Kalyan by informing them accordingly and by offering them one month's wages in lieu of notice period and in addition compensation payable as per the provisions of the Industrial Disputes Act. The fact that the Petitioners were informed that their services would no longer be required from 11.1.1985 and thus stood terminated from that date and they refused to accept the one month's wages in lieu of notice and the amount of compensation under IDA drawn Pay order No.331523 dated 12.1.1985". There are certain other contentions but they are not very much relevant.

4. Mr.Nerlekar appears for the applicant. Mr. Nair has orally prayed for adjournment on the ground that his advocate has not come. This matter deals with termination of service in 1985 and we feel that it would be unjust to adjourn the matter. Hence the request for adjournment has been rejected.

5. Mr.Nerlekar submitted that the notice pay and other amounts that were required to be paid to the applicants were not offered on 10.1.1985 i.e. the date on which the applicant's services have been terminated. We have already reproduced the contentions raised by the respondents. It is clear therefrom that the amount that was payable to the applicant was withdrawn by a pay order dated 12.1.1985.

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Mr. Nair submitted that the amount was offered at the time when the services were terminated. However, this statement is not acceptable as the amount was drawn under pay order dated 11.1.1985, though the services were terminated w.e.f. 10.1.1985. The question as to what will be the effect of such non-payment at the time of termination of service has been considered by this Tribunal in original application No. 473/86 and other connected matter decided on 14.10.1987, that judgment is based upon various judgments of the Supreme Court. It is now well-settled that the notice pay etc. is to be simultaneously paid with the termination of services and that such non-payment would make the termination bad. In view of this position, the application deserves to be allowed and hence we pass the following order.

O R D E R

Tr.A.No. 142/87 (original Writ Petition No. 1214/85) is allowed. The termination of services of the applicants are quashed and set aside. It is declared that the applicants continue in the service of Railway Administration. The respondents are directed to reinstate the applicants with full back wages and necessary perquisites as are permissible under the relevant rule with effect from 11.1.1985 till the date of reinstatement. This order should be complied expeditiously, say, within a period of two months from today. Parties to bear their own costs.

B.C.Gadgil
(B.C.Gadgil)
Vice Chairman

P.Srinivasan
(P.Srinivasan)
Member (A)