

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 262/89

198

TAX NO.

DATE OF DECISION 24.9.1991

Parshottam Vira Baria

Petitioner

Mr. S.R. Atre

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. A.S. Rao

Advocate for the Respondent(s)

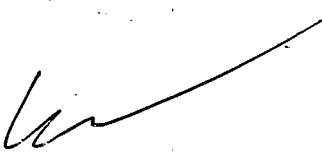
CORAM :

The Hon'ble Mr. U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member (A)

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. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000


 (U.C. Srivastava)
 V/C


(14)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No. 262/89

Parshottam Vira Baria,
R/o. Room No.31,
Chore Khireshwar,
Choghole, Diu. ... Applicant

V/s

1. The Union of India through the Administrator, Union Territory, Daman & Diu, Cabo Raj Niwas, Panaji, Goa.
2. The Chief Secretary, through the Administration of Union Territory, Daman & Diu, Secretariate, Daman, Moti Daman.
3. The Collector, Diu, Office of the Collector of Diu, Diu.
4. The Commissioner, Labour and Employment, Government of Goa, Daman & Diu, Junta House, 1st Floor, Panaji, Goa.
5. The Labour Inspector, Office of the Labour Inspector, Bunder Road, Diu.
6. The Collector, Daman, Union Territory of Daman & Diu, Daman 396 220.

CORAM : Hon'ble Vice-Chairman, Shri U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr. S.R.Atre, Advocate
for the applicant and
Mr. A.S.Rao, holding the
brief of Mr. R.M.Agarwal,
Advocate for the respondents.

ORAL JUDGEMENT:

Dated : 24.9.1991

(Per.U.C.Srivastava, Vice-Chairman)

The applicant's name was sponsored by the Employment Exchange at Diu and after interview for the post of Lower Division Clerk/Typist on daily wage basis

took place on 28.7.1985 the applicant was selected and appointment letter was issued on the next day and he was appointed on daily wage basis initially at the rate of Rs.16/- per day which was later on increased to Rs.22/- per day. The applicant was continued to work as such and according to him as the work was ~~in~~ regular nature that is why he was allowed to continue. The applicant in the meantime made a representation that he may be absorbed against a regular post or he may be regularised. As per allegations of the applicant the Labour Inspector vide his letter dated 19.9.1988 recommended that ~~as~~ the applicant and another person who was working as a Peon and entrusted with the work of a regular nature be continued in their services and the same be regularised. No action on the same was taken instead the applicant's services were terminated vide order dated 6.12.1988 by the Collector of Diu on the basis of some letter of the Central Government. On the basis of the interim order granted by this Tribunal he was allowed to work but later on the interim order was vacated. It appears that even after vacation of the interim order the applicant is still working on daily wage basis. The respondents have stated that there is no post, that the applicant was taken as casual worker and that the powers to create posts are with the Central Government and the Collector has got no power to create such post. In view of the fact that no such regular post exists that is why the applicant's services have been terminated. It appears that some work is available in the office and that is why the applicant was allowed to continue on daily wage basis and even now he is allowed to continue. But the creation of the post

is within the exclusive jurisdiction of the Central Government. Unless the post is ~~not~~ created the applicant cannot be appointed against a regular post or cannot be regularised. However, in view of the fact that the applicant has worked ^{for a} ~~long period~~ considerably and there is some ^{there for regularisation} allegation that recommendation is ~~poor~~ whenever a regular post is created and the appointment against the said post is made there appears to be no reason why the respondents will not give priority and preference to the applicant for appointment against the said post taking into consideration the work which has been performed by him during the years and the representation made by the applicant. With these observations the application is disposed of. There will be no order as to costs.


(M.Y. Priolkar)
Member(A)


(U.C. Srivastava)
Vice-Chairman