

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 236/1996

Date of Decision: 30.8.96

Arvind Kumar Tiwari,

Petitioner/s

Shri P. S. Gussain,

Advocate for the
Petitioner/s

V/s.

Union Of India & Anr.

Respondent/s

Shri V. S. Masurkar,


Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B. S. HEGDE, MEMBER (J).

Hon'ble Shri M. R. KOLHATKAR, MEMBER (A).

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?


(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 236/96.

Dated, this 30, the _____ day of August, 1996.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Arvind Kumar Tiwari
New Vishnu Mandir,
Dhela Devi Chowk,
Kalyan, Dist. Thane.

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Applicant

(By Advocate Shri P.S. Gussain).

VERSUS

1. Asstt. Electrical Engineer,
Car Shed,
Mumbai Central Division,
Western Railway,
MUMBAI - 400 008.

2. Union Of India owning
Western Railway through
The General Manager,
Western Railway Headquarters,
Churchgate,
MUMBAI - 400 020.

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Respondents.

(By Advocate Shri V.S. Masurkar)

: ORDER :

¶ PER.: SHRI B. S. HEGDE, MEMBER (J) ¶

1. Heard Shri P.S. Gussain for the applicant and Shri V.S. Masurkar for the respondents and carefully perused the pleadings.

2. The applicant was appointed as 'Substitute Khallasi' only on 03.01.1996. The respondents issued a show cause notice vide dated 16.02.1996 at annexure A-1 stating that the applicant has obtained the appointment of Substitute Khallasi under the forged signature of the General Manager (Establishment), Western Railway, H.Q. Office,

[Signature]

Bombay. Since no such letter was issued from the Headquarter Office, Western Railway, Churchgate, Bombay, nor the Competent Authority & General Manager has approved his engagement as a Substitute Khallasi, the engagement letter is based on a forged and fake document, and the same is required to be treated as cancelled and services terminated. The applicant was directed to submit his written explanation to the charges levelled against him within a period of 3 days of the serving of show cause notice. The applicant sent his reply on 25.02.1996 stating that the allegation made in the show cause notice is not correct. Instead of answering whether the allegations made in the show cause notice are correct or not, the applicant asked for the documents, which has not been detailed therein, from the respondents so as to answer the show cause notice. No final order has been passed by the respondents after receipt of the letter from the applicant. He has filed this O.A. on 01.03.1996 and obtained ex-parte ad-interim order vide dated 08.03.1996 stating that "the respondents are given six weeks time to file reply and the respondents are directed to give personal hearing and establish the fact of forgery committed by the applicant and give some time." The status-quo order continued from time to time.

3. The respondents in their reply have stated that the letter sent by the applicant has not been received by them and they have not passed any order, and Since there is no cause of action whatsoever, the question of filing the O.A. and seeking ad-interim order was not

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warranted. On perusal of the documents, we find that the application filed by the applicant is merely on the basis of apprehension and not against any order issued by the respondents. The Learned Counsel for the respondents rely upon the judgement in O.A. No. 147/96 decided by this Tribunal on 29.02.1996 wherein the Tribunal had passed the following order :

"Respondents are restrained from terminating the services of the applicants in terms of show cause notice dated 17.2.1996. Respondents, however, are at liberty to take departmental proceedings in terms of I.R.E.M. 2511 and not in terms of those proceedings."

In the reply, the respondents have clearly stated that the question of resorting to I.R.E.M. 2511 does not apply insofar as the applicant is concerned because he has not obtained any temporary status at the time of issue of show cause notice, therefore, this case should not be linked up with other cases. For such an employee, there is no protection of any law except the Principle of Nature Justice. The applicant has also not made out any case for interference by the Tribunal.

4. In the light of the above, we have considered the rival contentions of the parties and find that since no impugned order is pointed out by the applicant and merely on the basis of apprehension, the Tribunal cannot interfere in the administrative action

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to be taken by the respondents in the matter. The status-quo order does not give him any benefit in attaining the temporary status. It is open to the respondents to take appropriate action in accordance with the procedure that is in vogue and pass an appropriate order after giving him an opportunity to explain his conduct.

5. In the result, the O.A. is dismissed as premature, as no cause of action has been brought to our notice. No order as to costs.

M R Kolhatkar
(M. R. KOLHATKAR)
MEMBER (A).

B. S. Hegde
(B. S. HEGDE)
MEMBER (J).

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