

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:766/99

DATE OF DECISION: 29.11.2001

Shri Ganesh Pandurang Korgaonkar Applicant.

Shri Dhuri for Shri S.P.Kulkarni Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri V.S. Masurkar Advocate for
Respondents

CORAM

Hon'ble Shri S.L.Jain, Member(J)

(1) To be referred to the Reporter or not? Yes

(2) Whether it needs to be circulated to two other Benches of the Tribunal?

(3) Library. Yes

S.L.Jain
(S.L.Jain)
Member(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 766/99

THURSDAY the 29th day of NOVEMBER 2001

CORAM: Hon'ble Shri S.L.Jain, Member (J)

Ganesh Pandurang Korgaonkar
Residing at : Sevkrupa Sadan
5th floor, Room No. 192
N.M. Joshi Marg.,
Curry Road, Mumbai.Applicant.

By Advocate Shri Dhuri for Shri S.P. Kulkarni

V/s

1. Union of India through
Director,
Mumbai General Post Office,
G.P.O. Building, Near CST.,
Central Railway, Fort,
Mumbai.
2. Chief Postmaster General
II nd floor, G.P.O. Building,
Near CST, Fort,
Mumbai.Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

{Per S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act 1985 for the declaration that the oral termination of the application and from 7.9.1998 as arbitrary and illegal, direction to the respondents to re-engage the applicant immediately as the work is available in preference to his Juniors, entitled for grant of Temporary Status with effect from October 1996, to maintain seniority list of casual labourers / Coolies upto date and consider regularisation, to maintain records of work days in a proper form.

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2. The applicant claims that he was working as Casual Labour / Coolie on daily wages in the Bulk Mail Centre (BMC), Department of Respondent No.1 from 12.10.1995 to 6.9.1998. His services were terminated orally on 7.9.1998 by the respondents. The applicant has placed on record Exhibit A - 4 showing the details of the date on which he worked.

3. The respondents have pleaded in para 5 of the written statement that the Coolies are engaged for loading / unloading the Mail bags which are received abnormally in huge numbers. Coolie is paid according to his work performance and there is no fixed rate for such works as it is based on bargain.

4. On perusal of Annexure A - 4, I am of the considered opinion that the applicant was not being paid a particular amount per day, but different amounts are being paid on different dates as can be seen from the entries relating to them, dated 18.10.1995, 23.10.1995, 3.11.1995, 11.11.1995 and so on.

5. The respondents have placed on record R - 1 (Page 120 of the OA). Perusal of the same makes it clear that the persons who were paid Coolie charges as per their work. Similarly the other documents placed on record at page 121 to 176 of the OA. Thus the applicant was though engaged neither paid @ per day he was a part time casual labourer.

6. The learned counsel for the applicant relied on 1997 (1) ATJ 287 Shri Vishwas V/s Union of India and others and argued that expression 'Casual Labour' is the antithesis of every thing that is regular. An attempt to classify casual labourers into sub-divisions itself is a meaningless semantic exercise. The

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judgement relied in the case of Smt. Sakkubai & Anr. v/s Secretary Ministry of Communication & Ors. 1993 (2) ATJ 197. Suffice to state that the said judgement has been over-ruled by the Apex Court.

7. The learned counsel for the applicant also relied on 1997 (35) ATC 322 Satya Prakash Sharma and Another v/s Union of India and others. and argued that no discrimination could be made between persons whose wages were disbursed through muster - roll or through some other from, while considering their eligibility for regularisation. The point though raised in pleadings by the respondents but not argued as such the said authority is not relevant.

8. The learned counsel for the applicant relied on 1999 (1) AISLJ 107, which is regarding jurisdiction of the Tribunal when alternative remedy is available. The question of jurisdiction was raised by the respondents but not argued during the course of arguments. The Tribunal has jurisdiction to decide the matter as such. I concur that the authority that the Tribunal has jurisdiction in the matter.

9. The learned counsel for the applicant relied on 2000(1) ATJ 565 in the case of Anup and others v/s Union of India and others. On perusal of the authority it is clear that the point considered was whether the Scheme of 1993 was one time measure or not. In the case of Shri Veer Pal Singh and ors v/s Union of India and others 1996 (2) ATJ 128 the only question was regarding the facts whether the applicant there has worked 206 days or not. In the case of Anant Sitaram Chawan and ors v/s Union of India and others. 1999(1) AISLJ 502, the question that was decided was

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whether the change of name is only a ruse to avoid payment and it was held that the applicants are nothing but casual labour. Therefore they were covered by the Scheme. In the present case the applicant is neither a casual labour nor a part time casual labour, but he was a coolie and was being paid as per his performance. There is no scheme for regularisation for Coolie. For regularisation or claiming the relief regarding termination until and unless the applicant has some right, he is not entitled to claim that the termination is arbitrary or illegal.

9. In the result I do not find any merit in the OA. It is liable to be dismissed and is dismissed accordingly. No order as to costs.

SLJ /
(S.L.Jain)
Member (J)

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