

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE EIGHTEENTH DAY OF MARCH, 1987

Present : Hon'ble Shri Ch. Ramakrishna Rao Member(J)
Hon'ble Shri P. Srinivasan Member(A)

REVIEW APPLICATION No. 11/87

R. Francis,
Skilled Worker,
Foremans Training Institute,
Bangalore

...

APPLICANT

(Shri M. Raghavendrachar, ... Advocate)

V.

The Director of Technical Education,
Vignana Bhavan, New Delhi.

The Director,
Foreman Training Institute,
Bangalore.

RESPONDENTS

This Review application has come up for admission
before the Tribunal to-day, Hon'ble Shri Ch. Ramakrishna Rao,
Member(J) made the following :

ORDER

In this Review application the applicant wants us to
review our order dated 5.11.1986 rendered in Application No. 1649/
86. In that order we had rejected the contention urged by the
applicant that the order dated 28.4.1984 terminating his services
as skilled worker and posting him as Workshop Attendant in the
same office was in violation of Section 25-F of the Industrial
Disputes Act. Since that section applied only to workmen who
had been in continuous service for a year, it was of no avail to
the applicant who had not worked continuously for one year.
Further we were of the view that when a person already working in
an organisation is appointed to a higher post in the same organi-
sation and after some time his services in the higher post are
terminated and he is reverted to his old post it would not be a



case of retrenchment and, therefore, Section 25-F of the Industrial Disputes Act was not applicable to the instant case.

2. Shri M. Raghavendrachar points out that the first ground on which we rejected the original application was based on an incorrect reading of Sec. 25-F, Industrial Disputes Act since in the definition of continuous service in Section 25-B of the said ~~Act~~ ^{Act} a workman not employed below the ground in a mine is deemed to have worked for a period of one year if he had been in continuous service for 240 days in the 12 months immediately before the date with reference to which calculation is to be made. The applicant had fulfilled this condition and should, therefore, be deemed to have been in continuous service for a period of one year. Shri Achar, therefore, contends that we were in error in holding that Section 25-F was not applicable to the facts of this case and that therefore we should review our order.

3. On the second point considered by us viz., that the case of the applicant was not one of retrenchment, Shri Achar took pains to explain to us that the applicant who was already working as Workshop Attendant in the organisation of the Respondents was sponsored as a departmental candidate for appointment as skilled worker and he was selected for that post and not promoted to it. But, before he could complete probation in the higher post, his service was terminated and he had to assume charge of the old post. This was a case of termination of service in the higher post and not a reversion to a lower post and it should have been regarded as retrenchment. Therefore on this ground also we should review our earlier order.

4. We have considered the contention of Shri Achar carefully. We must at the outset point out that in review we are not and cannot act as a court of appeal against our own order.

Wd

Even assuming that we went wrong in holding that the applicant had not put in continuous service of one year in the post of skilled worker before his services in that post was terminated, the second point still remains where we have taken a view that this was not a case of retrenchment. In doing so, we saw no distinction, for the present purpose between promotion to a higher post and selection through departmental channels to a higher post. The applicant having been sponsored through his department for a higher post in the same department, the Rules providing for such sponsorship and recruitment of departmental candidates, we felt that it was no different from the case of a person promoted from a lower to higher post within the same department. In any case the view that we have taken viz., that the applicant was first promoted to the post of skilled worker and later reverted to his old post and that he had not been "retrenched" from the higher post in the process, proceeded on interpretation of the term "retrenchment" appearing in the Industrial Disputes Act. Substituting a different interpretation is not within the scope of a review of its own decision by the same authority.

5. In these circumstances, we reject this review application at the admission stage itself.

C. Ramesh Babu
MEMBER(J) 18.3.87

P. S. S. S. S.
MEMBER(A) 18/3/87

AN.