

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 183/91

~~Transfer Application No~~
~~xxxxxxxxxxxxxxxxxxxx~~

DATE OF DECISION: 4.8.94

Canteen Stores Dept. Petitioner
Employees Union & Ors.

Mr. R.P. Saxena Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. P.M. Pradhan Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

The Hon'ble Shri V. Ramakrishnan, Member(A)

1. To be referred to the Reporter or not ? *no*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *no*


Vice Chairman

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NO. 183/91

Canteen Stores Department

Employees Union & ors.

..Applicants

V/s

Union of India & Ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, Vice Chairman
Hon.Shri V. Ramakrishnan, Member(A)

Appearance:

Mr. R.P. Saxena
Counsel for the applicants

Mr. P M Pradhan
Counsel for the respondents

ORAL JUDGMENT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 4.8.1994

The only question which arises for consideration in this Original Application is as to the relief which can be granted to the applicants whose claims survive.

2. The present 63 applicants had filed OA NO. 283/87, 285/87, 287/87 and 658/88 for certain reliefs and regularisation and on 15.2.1990 this Tribunal passed the following order:

"8. As regards the employees working against

Group 'D' posts covered by the Original Applications nos. 283/87, 285/87, 287/87 and 658/88 it was stated that there were 112 altogether, of whom 40 have left, and out of the remaining the services of 50 among them have been regularised and the remaining 22 have been empanelled for the purpose of regularisation. Counsel of the respondents submits that as and when vacancies arise, having regard to the seniority position, those empanelled will also be regularised. It was also stated that certain other employees of this category are waiting to be empanelled whose cases will also be promptly considered. We record the submission."


In view of the discussions the Tribunal felt that there was no necessity of issuing any specific direction to the respondents as had been prayed for in the application and accordingly the applications came to be closed with the direction mentioned above.

3. Here 63 applicants had filed the application challenging their verbal termination on 9.3.90 after the judgment was delivered on 15.2.1990. The position that there was verbal termination as stated in the O.A. was not disputed in the written statement by the respondents. The fact that the applicants had worked for more than 240 days is also not in dispute. The contention of the respondents was that the applicants were on daily rated basis and the question of their termination on 9.3.90 does not arise at all in view of the fact that their services start at the beginning of the day and come to an end at the end of the day and there is no question of any sort of termination. No circumstances have been pleaded in the written statement filed by the respondents in the case which

come within S.25(F) of Industrial Disputes Act. It is, therefore, clear that the termination without setting out the reasons and in contravention of the provisions of Industrial Disputes Act will be no termination at all and the applicants shall be deemed to have continued in the service of the respondents.

4. The controversy is, however, limited now only to 28 of the applicants. Originally 63 applicants were parties to the application. The learned counsel for the applicants submits that 35 of them have been regularised and hence the relief has been claimed in respect of the 28 remaining workmen whose names appear in Annexure C.5 to the rejoinder dated 19th July 1993. With regard to the others it is apparent that there was illegal termination on 9.3.90 and they would be entitled for reinstatement with back wages. We need not say any thing in the present case ^{further} because their claim for regularisation has already been considered and the earlier case was disposed of on 15.2.90 in view of the observations made by the Tribunal.

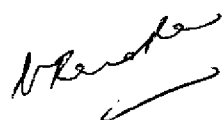
5. In the result, we direct the respondents to reinstate the 28 applicants to whom we have referred to above and pay the full backwages from the date of termination i.e., 9.3.90. The question of their regularisation will abide the statement made by the respondents as has been noted by the Tribunal in its order dated 15.2.90. The reinstatement shall be effective ^{ed} within two months from to day irrespective of the place of work in any depot. The monetary benefits will be paid to the 28 persons named above within four months from the date of communication of this order.



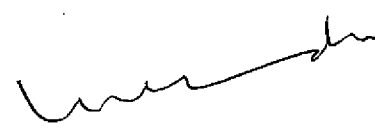
6. The benefit of back wages would also be given to the remaining applicants who are not covered by the 28 persons to whom we have referred, if they happen to have been terminated and reinstated during the pendency of this application.

7. Those of the applicants who do not report for work after receiving the posting orders within ten days will not be entitled to any of the benefits which would accrue from this order.

8. No order as to costs.



(V. Ramakrishnan)
Member(A)



(M.S. Deshpande)
Vice Chairman

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

R.P. NO. 21/95 IN O.A.NO. 183/91

Canteen Stores Department
Employees Union & Ors.

..Applicants

V/s

Union of India & Ors.

..Respondents


Coram: Hon.Shri Justice M.S.Deshpande, V.C.
HON. Shri V. Ramakrishnan, Member (A).

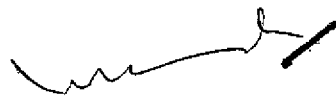
TRIBUNALS ORDER:(BY CIRCULATION)
(Per: M.S.Deshpande, Vice Chairman)

DATED: 24-4-95

The present Review Petition by the original respondents is filed only on the ground that the Hyderabad Bench of this Tribunal by its judgment delivered on 7th October 1994 in O.A.Nos. 1087/91 and 898/91 took a view different from the one we took on 4.8.94 in respect of the daily rated mazdoors. That judgment evidently was rendered after our decision and that a different view was taken later by the Tribunal cannot be a ground for reviewing our decision. If the Review Petitioners consider the decision to be erroneous, the remedy is not by filing an application for review.

The review petition is dismissed.


(V. Ramakrishnan)
Member(A)


(M.S. Deshpande)
Vice Chairman

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