

Second Floor,
Commercial Complex,
Indirenagar,
Bangalore-38.

APPLICATION NO(s)

746/94

RESPONDENTS:

Mr. Manohar T. Deshpandari
and another.

- ① Sri. M. Vasudeva Rao,
Advocate, No 2/2, Bride Street,
Langford Town, Bangalore-560025.
- ② Sri. N. B. Bhat, Advocate,
No. 545, 1645-A-Main
3rd Block, Koramangala,
Bangalore-560034.

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Please find enclosed herewith a copy of the
ORDER/~~STAY ORDER/INTERIM ORDER~~, Passed by this Tribunal
in the above mentioned application(s) on 22-07-94.

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

qm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

APPLICATION NO. 746/1994

DATED THIS THE TWENTYSECOND DAY OF JULY, 1994

Mr. Justice P.K. Shyamsunder, Vice Chairman

Mr. T.V. Ramanan, Member (A)

The Assistant Engineer
Microwave (Maintenance)
Kajubhag, Karwar.

.... Applicant

(By Mr. M.V. Rao, Advocate)

Vs.

1. Mr. Manohara T. Deshandari
at & po: Divgi, Kunte Tq.
Karwar District.
UttaraKarnataka-4481343.

2. The presiding Officer
Central Govt. Industrial
Tribunal cum Labour Court
Gandhinagar, Bangalore-9.

.... Respondents

(By Mr. N.B. Bhat for R-1)

O R D E R

(Mr. Justice P.K. Shyamsunder,
Vice Chairman)

This application is on behalf of the Assistant Engineer, Microwave (Maintenance), Kajubhag, Karwar, who was a party to an award passed by the Industrial Tribunal on a reference made to the said Tribunal by Government in connection with a dispute raised by a Mazdoor (the first respondent herein) alleging termination of his services in contravention of the requirements of law. Before the Tribunal the department contended that the services of the workman came to be terminated because of paucity of funds and with a view to economise on



expenditure. It was also urged in the written statement filed before the Industrial Tribunal by the applicant herein that the said Tribunal had no jurisdiction. However, as seen from the order of the Industrial Tribunal (Annexure-A1) ~~that~~ the applicant herein did not press this issue in the course of argument before the Industrial Tribunal. On the question of the termination of the workman's services both sides led evidence and on that basis the Industrial Tribunal came to the conclusion that the workman who had worked for more than 240 days and could not, therefore, have been axed without following the procedure laid down in Section 25-F of the Industrial Disputes Act. This is what the Tribunal says:

" The I party workman has worked for 240 days as enshrined in Sec. 25-B(2)(a)(ii) of the I.D. Act. Sec. 25-F says that no workman who has been in continuous service for not less than 1 year shall be retrenched by the employer until:-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired,
- (b) the workman has been paid at the time of retrenchment, compensation which will be equal to 15 days average pay for every completed period of continuous service or any part thereof in excess of six months,
- (c) notice in the prescribed manner is served on the appropriate Government.

Taking the Ex. 1 satisfies the condition 25-F (a), it is abundantly clear that two other conditions precedent to retrenchment, viz., 25-F(b) and (c) have not been complied with. I am of opinion that the termination of the services of the I party workman without complying mandatory provisions of 25-F of the I.D. Act cannot be sustained. "

Thus, there is no dispute that the respondent-1 had worked for more than 240 days and he is entitled for relief. The question then arise whether the employer could without recourse to the procedure enjoined under Section 25-F of the Industrial Disputes Act remove the services of the workman. The respondent is a workman as held by the Industrial Tribunal, an aspect which requires no debate. It becomes evident that his services were terminated without taking recourse to the steps enjoined by Section 25^F of the Industrial Dispute Act which lays down the procedure for taking such steps. We find no reason or ground to interfere with the award of the Industrial Tribunal. Hence, we reject this application. No costs.

Sch-
(T.V. RAMANAN)
MEMBER(A)

Sch-
(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY



S. Shankar 4/8
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE