

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1386/95 x122xx

Date of Decision: 11.3.97

Shri N.S. Kondhalkar

Petitioner/s

Shri A.I. Bhatkar

Advocate for the
Petitioner/s

V/s.

Union of India and others.

Respondent/s

Shri R.C. Kotiankar


Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B.S. Hegde, Member(J)

Hon'ble Shri

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


(B.S. Hegde)
Member(J)

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

Original Application No. 1386/95

Tuesday the 11th day of March 1997.

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

N.D.Kondhalkar
Working as a Temporary
Mazdoor with MTNL
Byculla Telephone
Exchange, residing at
3/4 Vasant Nagar,
New Mill Road, Kurla
Bombay.

... Applicant.

By Advocate Shri A.I. Bhatkar.

V/s.

Union of India through
the Secretary
Ministry of Communication,
Deptt. of Telecommunication
Sanchar Bhavan, New Delhi.

Assistant Engineer,
M.D.E. & Test Room,
M.T.N.L. Byculla Telephone
Exchange, Byculla, Bombay.

... Respondents.

By Advocate Shri R.C.Kotiankar.

O R D E R (ORAL)

¶ Per Shri B.S. Hegde, Member (J) ¶

The respondents were given sufficient time to file reply, however the respondents did not care to file reply, accordingly the respondents were awarded cost of Rs. 1000/- earlier. The learned counsel for the respondents has submitted that though the respondents have sent a cheque to the applicant the same has returned back as not accepted. Accordingly, the learned counsel for the respondents has been directed to hand over the cheque to the learned counsel for the applicant in the court and the same has been handed over.

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2. The respondents have filed reply on 3.1.97. It may be re-called that the applicant was initially appointed as Mazdoor on 20.6.83 and worked till 1991 and he was absent from duty from 1991-to 1993. The applicant has reported for duty on 13.7.93 after obtaining the certificate from Dr. Dilip Joshi, Consultant Psychiatrist, Mental Hospital, Thane. The respondents directed the applicant to appear before the Board of Doctors of J.J. Hospital for medical examination. The J.J. Hospital vide their letter dated 23.5.94 submitted its report that the applicant is fit to resume his duties. The applicant has sent an application dated 11.8.94 seeking permission of the respondents to accept him on duty as per the medical certificate issued by the J.J. Hospital. Since no reply was been received by the applicant he has no other alternative but to file this O.A.

3. The respondents in their reply has taken a stand that the O.A. is barred by limitation as the cause of action in this case had arisen as long back as on 6.8.91 and the applicant had filed this O.A. on 25.8.95. The applicant was engaged as a casual mazdoor with effect from 20.6.1983 in the office of Respondent No.2 on daily wages. He was conferred temporary status sometime in 1989. The applicant was transferred from Byculla telephone Exchange to Ghatkopar Telephone Exchange alongwith two other mazdoors and relieved on 5.8.91. It is alleged that due to ill treatment the applicant became sick and therefore the applicant did not join duty at Ghatkopar. The applicant on 22.7.93 approached

Byculla Telephone Exchange and submitted a letter to respondent No.2 stating therein that he fell sick and was under treatment at Thane Mental Hospital during the period from 7.8.1991 to 12.7.1993 and now he is medically fit to resume duty. The respondents have terminated the services without passing any order and in compliance with the due procedure of laws. Since the applicant has obtained temporary status, the respondents ought to have followed the Rules of Natural justice but failed to follow any principles of Rules of natural justice. The applicant has submitted the medical report of Thane Mental Hospital as well as the J.J. Hospital to the respondents, and therefore the respondents would have no other alternative but to take him on duty.

4. In the reply the respondents have stated that the reference to J.J.Hospital was by mistake, but nowhere it is mentioned that confirmation as temporary status was by mistake. Since the applicant has already attained the temporary status, it is incumbent on the respondents to accept his joining on the basis of medical certificates.


5. In the circumstances of the case, I allow the O.A. and the respondents are directed to take him on duty within a period of 15 days from the date of receipt of this order. Since the applicant is in a very lower strata of service and the attitude of the respondents is not at all appreciated, because the treatment given to the applicant is not in tune with the measures to be adopted in the welfare society. Accordingly, I am of the opinion that this is a fit case wherein the respondents should be saddled with the cost of Rs. 500/- which is to be remitted to the library of the CAT Bar Association, within a period of

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one month from the date of receipt of this order.

No order as to costs.


(B.S. Hegde)
Member (J)

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