

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH  
JAIPUR.

TA No. 2109/86

Date of Decision  
14.10.92

UNION OF INDIA .... PETITIONER/APPLICANT  
MR.G.P.SORAL .... COUNSEL FOR THE PETITIONER

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HARENDR A KUMAR .... RESPONDENTS.

NONE PRESENT ON BEHALF OF THE RESPONDENTS.

CORAM :

HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN  
HON'BLE MR.B.B.MAHAJAN, ADMINISTRATIVE MEMBER.

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PER HON'BLE MR.JUSTICE D.L.MEHTA, VICE CHAIRMAN :

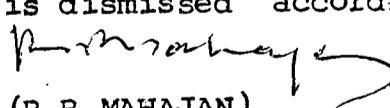
Union of India has preferred this appeal being aggrieved with the Judgment and decree dated 16.9.82 by Additional Munsif and Judicial Magistrate No.2 (North), Kota.

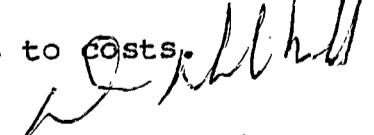
2. Brief facts of the case are that the suit was instituted in the Court of learned Munsif (North), Kota on 30.6.75 on the ground that the services of the applicant/petitioner had wrongly been retrenched. Without entering into any controversy about the facts, we would like to deal with the admitted position as stated by Mr.Soral. Mr.Soral submits that the applicant's services were washed away on account of 3 days' break in service from 16.12.72. However, he admittedly continued from 19.12.72 to 9.10.73 as Khalasi. He submits that during this period the applicant remained on tool-down

strike with other employees from 24.8.73 to 31.8.73. His services were, therefore, treated as fresh appointment from 1.9.73 and his services have thereafter terminated on 9.10.73 by impugned order. He further submits that no notice for termination of services was issued, no compensation was paid and subsequently a notice was given for the payment of salary of 14 days which was not paid earlier. Admittedly, applicant has worked for more than 240 days in a calendar year prior to his retrenchment and his services cannot be terminated in violation of Section 25-F of I.D.Act. In the absence of proper order of removal from service on account of tool down strike, be cannot be considered to be fresh <sup>extent</sup> extent from 1.9.73.

3. We have also gone through the detailed Judgment given by the learned Munsif and we are in agreement with the Learned Munsif.

4. We accordingly do not find any force in the appeal and the appeal is dismissed. Mr.Soral submits that the applicant has not joined the duty in spite of the fact that one month's time was allowed to him to join vide learned Munsif's judgment and decree appealed against. If this is so and the applicant has not voluntarily joined, necessary consequences will follow. The appeal which has been transferred to the Tribunal U/s 29 of this Act is dismissed accordingly. No orders as to costs.

  
(B.B. MAHAJAN)  
Admn. Member

  
(D.L. MEHTA)  
Vice Chairman

Shashi/