

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

C.A. No. 617/92

Date of decision: 26.7.94

NIRBHAY SINGH & ORS

: Applicants.

VERSUS

UNION OF INDIA & ORS

: Respondents

Mr. Virendra Lodha

: Counsel for the applicants.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

Hon'ble Mr. O.P. Sharma, Administrative Member

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

It is the height of gross negligence of the respondents that they are not contesting the case properly and not attending the Tribunal also. Mr. P.P. Choudhary was the counsel at Jodhpur and time was granted to file the reply from 1990 to 1992 and after a period of about 22 months, the case was admitted on 3.4.1992. Since then the case is pending disposal and the respondents have not filed the reply, even after admission on 3.4.92. Mr. Malik was present on 12.8.92 when the case was transferred from Jodhpur to Jaipur Bench and he represented the respondents. None is appearing here inspite of repeated directions and adjournments of the case.

2. The contention of the applicants is that they were appointed as casual labours on daily rated basis at Railway Electrification Project Division of Tele-Communication Department. They have given the details in Annexure A-1 showing that they are working since 1985-86 and their services were terminated by a verbal order on 1.12.1988 except that of Shri Nemi Singh whose services were terminated on 1.9.1988.

3. The contention of the applicants is that Electrification Project Division of Tele-Communication Department is an industry and the respondents have committed illegality by terminating their services by a verbal order.

The respondents have not represented the case and in fact, no reply has been filed before or after the admission. It is also a serious matter that no one is representing and the Officer-in-Charge has not taken any step to protect the case of the Department. From the file, it seems that at Jodhpur, the Advocate was feeling tired because of non-cooperation of the Officer-in-Charge of the Department and so the reply could not be filed. In such circumstances, there is no alternative except ~~the~~ ~~the~~ holding that the applicants have worked for more than 240 days in a calendar year and no notice has been served and their services have been terminated without the payment of compensation in clear violation of the Section 25-F of the Industrial Disputes Act, 1947.

4. In the result, the O.A. is accepted. The respondents are directed to take the applicants on duty immediately. As far as the question of back wages is concerned, it will be decided by the Labour Court dealing with the cases U/S 33-C(2) and the applicants can move the Labour Court for the same U/S 33C(2) for the determination of the quantum of the wages.

5. It is further directed that the Secretary, Ministry of Communications should fix up the responsibility of the person who was negligent in the discharge of his duties and who has not attended the court even for a day and who has not assisted the Government Counsel and for these reasons, the reply could not be filed. The loss incurred by the Department should be recovered from the person/persons who is/are found negligent in the discharge of his duties and disciplinary proceedings should be initiated against him.

6. The O.A. is disposed of accordingly, with no order as to costs.

(O.P. SHARMA)
Administrative Member

(M.L. MISHRA)
Vice-Chairman