

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

TRANSFERRED/ORIGINAL APPLICATION NO. 150/89

DATE OF ORDER: 15.2.90.

BETWEEN:

*A. Prabhanath and
another*

APPLICANT(S)

*The Assistant Engineer F.C.
Telephone Station and 5 others*

RESPONDENT(S)

FOR APPLICANT(S): *Dr. C. Suryanarayana*

FOR RESPONDENT(S): *S. Madan Mohan Rao,
Advt. S.C.*

CORAM: *Hon'ble Dr. T. Varadachari, member,*
(Single Bench)

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Bench of the Tribunal?
5. Remarks of Vice-Chairman on columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

*TVM
M(5)*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

O.A.No. 150 of 1989.

Date of order 15.2.1990.

Between:

A. Prabhunath and another. .. Applicants.

Vs.

The Assistant Engineer, ~~and~~ FC.,
3rd Floor, Telephone Bhawan,
Saifabad, Hyderabad and five .. Respondents.
others.

Sri C.Suryanarayana, Counsel for the Applicant.

Sri E.Madanmohan Rao, Additional Standing counsel
for Respondents.

Judgment of the Single Member Bench
pronounced by Hon'ble Sri J.
Naraskmhamurty, Member (Judl.)

-:-

This Application is filed for quashing the
impugned Order, FCR-HD/M-3/88-89 dated 7--2--1989.

2. The averments in the application are as
follows:

By an order dated 1--2--1988 the 1st respondent
sought to retrench the ~~2nd~~ Applicants ~~Maxx~~ who filed
O.A.No.398 of 1988 and 253 of 1988 respectively on
the file of this Tribunal and the same were allowed ;
and they were reinstated in service. Thereafter,
again the 1st respondent attempted to retrench 2nd
applicant by an order dated 1--7--1988 and the 2nd
applicant filed O.A.No.447 of 1988 on the file of
this Tribunal and the same was allowed and he was

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reinstated. The 1st respondent made a third attempt to terminate the 2nd applicant's service by an order dated 1-8-1988. He filed O.A.No.551/988 and this Tribunal stayed the operation of the impugned order dated 1--8--1988. Consequently he is being continued in service.

3. While so, the 4th respondent by his letter No. E97/A dated 24--1--1989 asked the 1st respondent to relieve the Mazdoors who have been deputed to his office from the 4th respondent's Division at an early date. Taking advantage of the above letter, the 2nd respondent with a mala fide intention of getting rid of the applicants from his office relieved them on the afternoon of 7--2--1989 by the impugned order with orders to them to report to the 4th respondent. Though the Applicants filed M.A.(Regn.No.208) of 1989 and M.A. (Regn.No.207)1989 in their respective O.A.Nos., 398/88 and 551/88 to suspend the operation of the impugned order treating the same as consequential to the impugned orders in the said O.As., they have been advised to report to the 4th respondent. The two Applicants reported to the 4th respondent on 13th February, 1989 but the 4th respondent refused to admit them to duty. He had sent a letter No.E97/II dated Nil--2--1989 stating that Sri I.Venkateswara Rao and 'K.Ramanjaneyulu were the Mazdoors who had been deputed from the 4th respondent's Sub Division to the 1st respondent's control and that it was those Mazdoors that should be sent back, but not the applicants"who are not selected by this Sub-Division". The 4th respondent further added that:

"Incidentally those two Casual Mazdoors are reported to have been reinstated by the Court Judgment. Therefore, those may be kept in your office and the Mazdoors referred to above may please be relieved forthwith to facilitate the easy future correspondence in your office in the Court case."

Consequently, the Applicants went back to the 1st respondent's Office, but the 2nd respondent who is now in-charge of the office of A.E., FC-I, Hyderabad refused to readmit the applicants back to duty and thus stranded ~~km~~ them in the streets. They are now disowned by the Unit which recruited them and were not allowed to join in the office to which they were mischievously transferred on the plea of sending them 'back' to the place from where they are depicted as deputationists.

3. The applicants are undisputedly workmen within the meaning of S.2(s) of the I.D.Act, 1947. Their rejection by the recruiting Unit as well as the Unit to which they have been transferred makes it abundantly clear that they have been thrown out of service by dubious methods and the same is retrenchment within the meaning of S.2(oo) of the I.D.Act. Their retrenchment is without notice, without furnishing any reasons and without complying with the other mandatory provisions of Section 25-F of the I.D.Act. Hence the applicants approached this Tribunal for the relief of quashing the impugned order.

have not
4. The respondents/~~filed ~~xxxx~~ ~~xxxxxx~~ ~~xxxxxx~~~~
~~ing as ~~xxxxxx~~~~ their counter.

5. Sri C.Suryanarayana, learned counsel for the applicants and Sri E.Madan Mohan Rao, learned Additional Standing counsel for the respondents argued the matter.

6. Both the applicants joined service under the 1st respondent and they were working continuously. On 1--2--1988 the 1st respondent sought to terminate

2/10/88

the services of the 1st applicant and he filed O.A.No.398/88 ~~am~~ before this Tribunal and it was allowed on 19--7--1988 and he was reinstated in service. By the same order on 1-2-1988 the 1st respondent also sought to terminate the services of the 2nd applicant. The 2nd applicant also filed O.A.No.253/88 before this Tribunal and it was allowed on 2--5--1988 and again the 1st respondent by an order dated 1--7--1988 attempted to retrench the 2nd applicant whereupon the 2nd applicant filed O.A.447/88 before this Tribunal challenging the said order dated 1-7-1988. The Tribunal allowed the same on 19--7--1988. Consequently he was reinstated in service. The 1st respondent again made third attempt to terminate the ^{2nd} ~~am~~ ^{Service} applicants by the impugned order dated 1--8--1988. He filed O.A.551/88 in the Tribunal and this Tribunal stayed the operation of the impugned order dated 1-8-1988 and the 2nd applicant is being continued in service.

7. While matters stood thus the 4th respondent by his letter No. E.97/A dated 24--1--1989 asked the 1st respondent to relieve the mazdoors who have been deputed to 1st respondent's office from 4th respondent's sub-division at an early date. The 2nd respondent with a mala fide intention of getting rid of the applicants from his office relieved them on the A.N. of 7-2-1989 instead of ~~the~~ I.Venkateswara Rao and K.Ramanjaneyulu who had been deputed from the 4th respondent's sub-Division.

8. The 2nd respondent addressed a letter to the 4th respondent on 7--2--1989 stating that ~~xxx~~ "Sri A.Prabhunath and Sri G.Srinivas (applicants) are sent back to the Secunderabad Sub Division as per your letter received by this office on 6--2--1989. Necessary records regarding date of joining in the Department etc., will be sent in due course. The two Mazdoors are hereby relieved on the A/N of 7-2-1989" The 4th respondent addressed a letter dated Nil --2--1989 which reads as under:

" A kind reference is invited to the correspondence resting with the above letter regarding deputation of Casual Mazdoors. Sri I.Venkateswara Rao and Sri K.Ramanjaneyulu , Casual Mazdoors have been deputed to your office. They may please be relieved back immediately as requested in this office letter No.E.97/A dated 24--1--1989

Instead Shri A.Prabhunath and Sri G. Srinivas have been relieved who are not selected by this Sub Division. Incidentally, it is mentioned that those two Casual Mazdoors are reported to have been reinstated by Court judgment. Therefore, those may be kept in your office and Mazdoors referred to above may please be relieved forthwith to facilitate the easy future correspondence in your office in the court case."

The 4th respondent's letter No.E97/II dated --2--1989 extracted above clearly shows that the applicants were sent back to the office of Assistant Engineer(II) Fault Control, Hyderabad, 2nd respondent herein. It is also clear from the above, that though the 4th respondent in a very clear terms asked to relieve the Mazdoors who have been deputed to the 1st respondent's from the 4th Respondent's Sub-Division. Instead of

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relieving the said persons viz., I.Venkateswara Rao and K.Ramanjaneyulu, the 2nd respondent relieved the applicants and asked them to go and join under the 4th respondent. The 4th respondent did not take them instead addressed a letter to the 2nd respondent to keep the applicants in his office because the Court cases are pending. The 2nd respondent also did not take them into his office. Thereby the applicants were put in streets. This show the mala fide intention of the part of the 2nd respondent and throws a doubt as alleged by the applicants that the 2nd respondent acted mischievously in this regard to wreak Vengeance against the applicants as they approached the Tribunal and obtained interim orders. On the previous occasions, ^{when the 2nd respondent} ~~they were~~ attempted to retrench them they filed O.As., and the O.As., were allowed; consequently they were reinstated.

To get rid of the applicants, the 2nd respondent instead of sending back I.Venkateswara Rao and K.Ramanjaneyulu, he relieved the applicants to go and join under the 4th respondent. The 4th respondent did not entertain them and sent back to the 2nd respondent. The 2nd respondent also did not allow them to join.

This is really an act of unfair labour practice. The respondents tried to retrench them but they could not succeed. Hence they invented this theory of sending them to work under the 4th respondent who in turn refused and returned back to the 2nd respondent. Even then the 2nd respondent

6/1/20

To:

1. The Asst. Engineer, FC, 3rd floor, Telephone Bhavan, Saifabad, Hyderabad-500 004.
2. Sri K.V.S.R. Krishna Murthy, AE, FC, 3rd floor, Telephone Bhavan, Saifabad, Hyderabad-500 004.
3. The Divisional Engineer, FC, CTO Compound, Nagpur-440 001.
4. The Sub-Divisional Officer, Telecom,, Sec'bad-500 003.
5. The General Manager, Mtce, Western Telecom Region, Bombay-400 023.
6. The Director-General, Telecom, (representing Union of India) New Delhi-110 001.
7. One copy to Mr. C. Suryanarayana, Advocate, 1-2-593/50, Srinilayam, Sri Sri Marg, Gagan Mahal, Hyderabad.
8. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
9. One spare copy.

. . .

kj.

ANC
Received on 26/2/80
at 15:30 hrs
B
26/2

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ought to have allowed them to join. But he did not do so. This is a very sad state of affairs and the respondents are not fair in dealing with the applicants.

In the circumstances and in view of the material on record, I am of the opinion that the action of the respondents is high-handed and unfair. The impugned order is therefore liable to be quashed. It is accordingly quashed.

In this case, the applicants were put to unnecessary harassment by ~~xxx~~ the unfair and high-handed action of the respondents, I feel that it is just and proper to ~~xxx~~ award costs to the applicants.

In the result the applicant^{tion} is allowed with costs of Rs 500 — (five hundred only)
MS MS

(J. NARASIMHAMURTY)
Member (Judicial)

Date: 15-2-90

SSS.

1172 6/4/90
Deputy Registrar (Adm.)

25/10/90
26/11/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

ORIGINAL APPLICATION No.150/89.

Date of Order:15.2.1990.

Between:- A.Prabhunath and another

.....Applicants.

AND

The Assistant Engineer,FC,3rd Floor,
Telephone Bhawan, Saifabad, Hyderabad and
Five others

.....Respondents.

MEMO OF COSTS

Cost of Rs.500/-(Rs. Five hundred only) awarded by the Tribunal in the above Original Application No.150/89 to be paid by the Respondents to the Applicants through their Counsel. Report compliance.

T. V. S. 12/4/90
Deputy REGISTRAR. (Adv)

A. B. S. 12/4/90

Draft by: Checked by: Approved by
D.R.(J)

Typed by:

Compared by:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

~~HON'BLE MR.B.N.JAYASIMHA: (V.C.)~~

A N D

~~HON'BLE MR.D.SURYA RAO: MEMBER (JUDL.)~~

A N D

~~HON'BLE MR.J.NARASIMHA MURTHY: (M) (J)~~ ✓

A N D

~~HON'BLE MR.R.BALASUBRAMANIAN: (M) (A)~~

DATED: 15.2.90

ORDER/JUDGMENT: ✓

~~M.A./R.A./C.A./No.~~

in

~~T.A.No.~~

(~~W.P.No.~~)

D.A.No. 150/89

~~Admitted and Interim directions
issued.~~

~~Allowed, with costs~~ ✓

~~Dismissed.~~

~~Disposed of with direction.~~

~~M.A. Ordered.~~

~~No order as to costs.~~

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