

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.151/91

Date of decision: 20 -8-93.

Between

Bokam Govinda

... APPLICANT

A N D

1. The Govt. of India, rep. by its Secretary, Ministry of Urban Development, Central PWD, Delhi.
2. The Superintending Engineer, Visakhapatnam Central Circle, Muralinagar, Visakhapatnam-7.
3. Executive Engineer, Vizag Central Divn.No.II, Central P.W.D., Gajuwaka, Visakhapatnam-530026.

... RESPONDENTS

Appearance:

For the applicant : Sri G.Bikshapathy, Advocate
For the respondents : Sri N.V.Ramana, Addl.CGSC

CORAM:

The Hon'ble Sri Justice V.Neeladri Rao, Vice-Chairman
The Hon'ble Sri P.T.Thiruvengadam, Member (Admn.)

contd...2.



JUDGEMENT

(of the Bench delivered by Hon'ble Sri Justice V.
Neeladri Rao, Vice-Chairman)

The applicant alleges that he was appointed as N.M.R. Typist with effect from 13-6-1989. But the respondents state that the applicant was engaged only as Casual Typist as and when there was work. The applicant was not engaged with effect from 14-12-1990.

2. It is pleaded for the applicant that the ~~his~~
~~Very much~~ ~~case involved is for~~ being in contravention of Section 25(F) of the Industrial Disputes Act and as the Respondent No.3 was engaging outsiders as typists the same is in violation of Section 25(H) of the I.D. Act for the applicant was not again offered that post. Though it is laid down in 1986(1) LLJ 403 (Surender Singh Vs. CPWD) that the employees engaged on casual basis had to be regularised, no steps were taken for regularisation of the applicant. This O.A. was filed praying for declaration that the action of the Respondent No.2 in terminating his services with effect from 14-12-90 is illegal, arbitrary and invalid and for consequential direction to the Respondents to reinstate him in service with back wages and other ~~an~~ attendant benefits including regularisation of his service as typist with regular scale of pay.

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3. It was pleaded for the respondents that I.D. Act is not applicable for the employees engaged in CPWD. It is also the case of the respondents that the applicant was engaged for only 178 days during the 12 months prior to 14-12-90 and on that ground also Section 25-F of I.D. Act is not attracted. The allegation of the applicant that others were engaged for doing the typing work is denied. The question of regularisation does not arise as there is no sanctioned post of typist, is another contention for the respondents. Statement dated 26-7-93 was filed by the Executive Engineer, Visakhapatnam Central Division-II, C.P.W.D., Visakhapatnam to show that the applicant was engaged for 178 days in the calender year 1990 and he was engaged for 23 days in December 1989. Thus, it is evident that the applicant had not worked for 240 days during the period of 12 months prior to 14-12-1990, the date from which he was disengaged.

4. 1985 SCC (L&S) 940 (Workmen of American Express International Banking Corp. Vs. Management of American Express International Banking Corp.) was referred to for the applicant to contend that even Sundays and paid holidays have to be included in order to determine as to whether workmen actually worked for not less than 240 days as envisaged under Section 25-B of the I.D. Act. The case of a

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workman of American Express International Banking Corporation was considered. ^{in the above case} The Delhi Shops and Establishments Act, 1954 was applicable in regard to the said Corporation. Section 17 of the said Act laid down that every employee shall be allowed atleast 24 consecutive hours rest (weekly holiday) in every week which shall, in the case of shops commercial establishments required by the said Act to observe a close day, be on the close day.

Section 18 of the said Act directs that no deductions shall be made from the wages of any employee on account of holiday granted under Section 17 of the said Act. ^{As} ~~Thus~~ ^{As} in that case the weekly off was ^a paid holiday, it was held that the weekly offs also should be included in order to determine ^{whether} as to the workman worked for 240 days. But no material is placed to show that weekly off was a paid holiday for the casual workmen engaged by CPWD. Hence the weekly offs cannot be included. In order to determine as to whether the applicant worked for 240 days.

5. Thus, even assuming that CPWD is an industry coming within the ambit of Industrial Disputes Act still the applicant is not entitled to the benefit under Section 25-F of the I.D. Act as he had not worked for 240 days in the relevant year. As such there is no need to advert to 1987 LIC 89 (The P.W.D. Employees' Union & ors. Vs. State of Gujarat & ors.), a judgment of the Gujarat High Court wherein it was held that the activities undertaken by the Irrigation Department of the ~~xxx~~ State are industry within

UTTAR

Section 2(j) and the labourers working thereon
are workmen within Section 2(f) of the I.D.

Act.

6. While it was stated for the applicant that
by the time ~~then~~ he was disengaged, outsiders were
engaged for discharging the duties of typist, the
same was denied by the respondents. Further it
is stated for the respondents that there is no
sanctioned post of typist in their Division and
hence the question of regularisation does not
arise.

7. There are no other grounds on which the
disengagement of the applicant on 14-12-1990 ~~are~~ is
challenged. In the result, the O.A. is dismissed
with no costs.

P. T. Thiruvengadam

(P.T.Thiruvengadam)
Member/Admn.

V. Neeladri Rao
Vice-Chairman

Dated: th day of August, 1993.

mhb/

8/8/83
Deputy Registrar

To

1. The Secretary, Govt. of India,
Ministry of Urban Development,
Central PWD, Delhi.
2. The Superintending Engineer, Visakhapatnam Central Circle,
Muralinagar, Visakhapatnam-7.
3. The Executive Engineer, Vizag Central Divn. No. II,
Central P.W.D. Gajuwaka, Visakhapatnam-026.
4. One copy to Mr. G. Bikshapathy, Advocate, CAT.Hyd.
5. One copy to Mr. N. V. Ramana, Adnl. CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
8. One spare copy.

Shashikala
P. V. M.

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM:M(A)

Dated: 20 - 8 - 1993

COURT/JUDGMENT:

M.A/R.A/C.A.N.

O.A.No. 151 in 91

T.A.No. (W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with directions

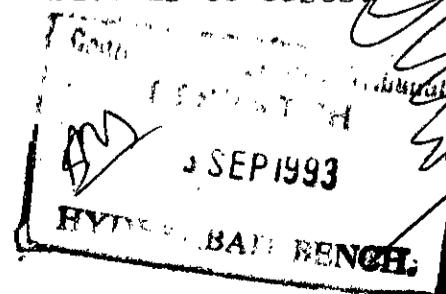
Dismissed

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered

No order as to costs.



pvm

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