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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL; HYDERABAD BENCH; AT HYDERABAD

O.A.NO. 204 OF 1991

DATE OF DECISION:06-03-1991

B.Kasapa Raju

.....Applicant

and

1. The Telecom District Engineer,
Guntur, Guntur District.
2. The Divisional Engineer, Phones,
Guntur-7, Guntur District.

.....Respondents

Counsel for the Applicant: Shri M.Rama Rao, Advocate

Counsel for the Respondents: Shri Naram Bhaskar Rao, Sr.CGSC

.....

C O R A M:

The Honourable Shri B.N.Jayasimha, Vice Chairman

The Honourable Shri D.Surya Rao, Member (Judicial)

(Judgment of the division bench delivered by Hon'ble Shri B.N.Jayasimha, Vice Chairman)

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1. The applicant who worked as a Part-Time Van Driver has filed this application seeking a declaration that the action of the respondents in terminating his services as illegal and for a direction to reinstate him as Van Driver with all consequential and incidental benefits.

2. The applicant states that he was engaged as a Part-time Van Driver by the Divisional Engineer, Telecommunications, Guntur, on 8-11-1979 and worked as such till 25-5-1982. The chronology as regards his appointment, work done, etc, reads as follows:

8-11-1979: The applicant was appointed as Part-Time Van Driver by the Divisional Engineer, Telecom, Guntur and worked till 25-5-1982.

20-3-1981: The General Manager, Telecom, Secunderabad has directed all the Divisional Engineers in AP to regularise the services of all the casual drivers engaged in various divisions before 31-3-1981.

27-4-1981: The Sub Divisional Officer, Telecom, Tenali conducted interviews. The applicant was selected and appointed as Mazdoor in the construction and maintenance parties of Tenali Telecom Sub-Division. The applicant worked till October, 1981.

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13-10-1981 The Divisional Engineer, Telecom, Guntur has appointed the applicant as part-time sweeper in the same office.

26-8-1982: The Divisional Engineer, Guntur, appointed the applicant as Van driver in the scale of Rs.260-6-290-EB/6-326/8-366-EB-8-390-10-400 with effect from 26-8-82 for 60 days

3-11-1982 The Divisional Engineer, Guntur has extended the appointment of the applicant as Van driver for another sixty days with effect from 25-10-1982.

25-2-1983: The DE has extended the appointment of the applicant for another 60 days w.e.f. 24-12-1982.

10-12-1983: Applicant made representation to the DE to appoint him as regular Van driver.

April, 1985 The applicant worked as Sweeper till April, 1985.

May & June, 1985: The applicant worked as Van driver

1-10-1986 to 31-12-1986: The applicant worked as Mazdoor under the control of JE(E), departmental Telegraph Office.

The applicant's services were finally terminated on 31-12-1986 and on 20-6-1988 he submitted a written representation to the Telecom District Engineer, Guntur. He sent another representation to the Telecom District Engineer. But, he has not received any reply to these representations. Hence, he has filed this application.

3. We have heard Shri M.Rama Rao, learned counsel for the applicant and Shri Naram Bhaskar Rao, learned Standing counsel for the department, who took notice at the admission stage. The main ground on which the applicant questions the order of termination is that no notice was issued to him before terminating his services and therefore it is contrary to the provisions of Section 25-F of the Industrial Disputes Act. It is noticed that according to the applicant himself his services were terminated as a Van Driver in the year 1986. He ^{has} ~~did~~ not question that order till now. Further, according to him he worked as a Mazdoor from 1-10-86 to 31-12-1986 from where also his services were terminated and he has not questioned even this order till now. The applicant has also furnished various details of the period he has worked and duration as annexures. Shri Bhaskar Rao contends that in accordance with the decision of the Full Bench in A.Padmavally etc vs. CPWD and others reported in 1991(1) SLR 245, where there are disputed questions of fact relating to the employment, aggrieved employee must approach Industrial Tribunal. In this case the applicant is seeking his reinstatement as a Van Driver and he worked as ^{intermittently} ~~intermittantly~~ as Mazdoor. The ques-

tion of facts would have to be gone and evidence would have to be let-in in support of the applicant and in support also of the respondents. We have given our careful consideration to these contentions. The Full bench of the Tribunal in the above cited decision observed as follows:

"40. (1) The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent jurisdiction with those authorities in regard to matters covered by that Act. Hence all matters over which the Labour Court or the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the Administrative Tribunal for adjudication. The decision in the case of Sisodia, which lays down a contrary interpretation is, in our opinion, not correct.

(2) An applicant seeking relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act.

(3) The powers of the Administrative Tribunal are the same as that of the High Court under Article 226 of the Constitution and the exercise of that discretionary power would depend upon the facts and circumstances of each case as well as on the principles laid down in the case of Rohtas Industries (supra).

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In this case the applicant is seeking relief under the provisions of section 25(f) of the I.D.Act, 1947. As rightly contended by Shri Bhaskar Rao, the applicant has to exhaust the remedies available under that Act before filing this application. There are several aspects to the claim of the applicant which are more appropriately gone into by an Industrial Court and we do not think that the applicant can invoke this Tribunal's jurisdiction as under Article 226 of the constitution.

4. In the result we dismiss the application with liberty to the applicant to approach the competent Industrial Tribunal. No order as to costs.

B Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman

D.Surya Rao
(D.SURYA RAO)
Member (J)

Deputy Registrar
Dated: 6th March, 1991. & Deputy Registrar.
Dictated in Open Court.

To all/

1. The Telecom District Engineer,
Guntur, Guntur Dist.
2. The Divisional Engineer, Phones, Guntur-7,
Guntur Dist.
3. One copy to Mr.M.Rama Rao, Advocate, 8-F Subhodya Apartments,
Boggulakunta, Hyderabad.
4. One copy to Mr.N.Bhaskar Rao, SGSC. CAT.Hyd.
5. One copy spare

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APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N.JAYASIMHA : V.C.

AND

THE HON'BLE MR.D.SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

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

Dated: 6-3-1991.

ORDER / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

O.A.No. 204/91

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn by

Dismissed for default

M.A. Ordered/Rejected.

No order as to costs.

