

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

-----  
DATE OF JUDGEMENT: 21.3 - 1995

Between

R.Narasimhulu

.. Applicant

and

1. The Asst.Engineer,  
UHF Mtce.,DRDL,Kanchanbagh  
Hyderabad-268,
2. The Divisional Engineer  
Microwave Mtce Sai Nilayam  
6-1-85/10, Saifabad  
Hyderabad-4.
3. The Director  
Mtce.STSR 6-1-85/10 2nd Flr  
Saifabad, Hyderabad-4.
4. The Divisional Engineer,  
Telecom, Hyderabad(Rural)  
Hyderabad-50

.. Respondents

Counsel for the Applicant :: Mr C. Suryanarayana

Counsel for the Respondents :: Mr V. Bhimanna

CORAM:

HON'BLE SHRI A.V. HARIDASAN, MEMBER(JUDICIAL)

HON'BLE SHRI A.B. GORTHI, MEMBER(ADMN)

JUDGEMENT

{As per Hon'ble Shri AV Haridasan, Member(Judl.)}

The applicant, who was engaged as a Casual Mazdoor under the first respondent from 1.9.1991 onwards and had rendered a service of 552 days was retrenched by the impugned order dated 11.3.1993, with effect from 12.3.1993 for want of work and as he was said to be the junior most casual mazdoor. The applicant states that he is neither the junior most casual mazdoor nor is there want of work requiring his retrenchment and that the impugned order <sup>was</sup> issued pursuant to the letter issued by the third respondent dated 18.2.93 (annexure A-II) to the OA) to the DE, STSR, Hyderabad, stating that inspite of instructions issued from the CGMM's office to all field units that engagement of casual mazdoors on Muster Rolls after 31.3.1985 was totally banned, It was noted that several field units were continuing to engage casual mazdoor <sup>under</sup> ACG.17 and that the said practice was contrary to the instructions. The applicant states that in the retrenchment notice, his position in the seniority of casual mazdoors of Hyderabad DE Territory is not mentioned and therefore, it is not possible to find that his retrenchment was necessitated for want of work and he being the junior most. According to him, he has been retrenched without following mandatory provisions contained in 25(f) of Industrial Disputes Act, as also in violation of Article 14 of the Constitution of India. Therefore, the applicant prays that the impugned order of termination dated 11.3.93 may be set aside and the respondents be directed to reinstate the applicant with full backwages as if he continued in service and protection of seniority showing his name at the appropriate place in the seniority list of casual mazdoors pertaining to his Territorial Telecom Distt <sup>(Chennai)</sup> to which he belonged.

(U7)

2. The respondents in their reply statement have contended that the application is not maintainable since the applicant has not resorted to the remedy provided under the Industrial Disputes Act. They also contend that the Telcom Department is not an industry and therefore the provisions of Industrial Disputes Act do not apply. They admit that the applicant was engaged from 1.9.1991 with the first respondent and was retrenched for want of work by the impugned notice. The position of the applicant in the seniority list of Casual Mazdoors of Hyderabad Territorial Division was not indicated because he was not sponsored by the Telecom-D TDE (Hyderabad (Rural)). It has been indicated that the applicant's service particulars have <sup>not</sup> been kept in the office of the first respondent and intimated to TDE of Territorial Division of Hyderabad (Rural) for re-engagements and when work becomes available. As the applicant has been given one month's ~~xxxxxx~~ wages in lieu of notice and retrenchment compensation, simultaneously with the retrenchment ~~and~~ the retrenchment was effected after completing all formalities in accordance with the rules. <sup>respondents,</sup> According to the / the applicant has no legitimate grievance to be redressed.

3. In the rejoinder filed by the applicant he has contended that the retrenchment compensation has not been correctly paid to him and that, it was paid only after the retrenchment and therefore, the retrenchment is not in order.

4. We have perused the pleadings and materials on record and have heard learned counsel for both the parties.

5. The contention of the respondents that the application is not maintainable as the applicant has not resorted to the remedy available to him under the Industrial Disputes Act and that the provisions of Industrial Disputes Act, are not applicable to the case of the applicant are inconsistent. The applicant has filed this application not only on the ground that the provisions of Industrial Disputes Act have been violated, but also on the ground of violation of Art. 14 of the Constitution as Juniors to the applicant have been engaged while the applicant has been retrenched. ~~and that the~~ Provisions of the Industrial Disputes Act ~~are~~ the applicable in case of the applicant is evident from the action taken by the respondent themselves because, in the retrenchment notice it has been stated that retrenchment compensation as required under the Industrial Disputes Act was being paid to the applicant. Therefore, the contention that the Industrial Disputes Act is not applicable in the case of the applicant has no force at all. As the applicant has contended that there is violation of fundamental rights guaranteed under Art. 14 of the Constitution, the Forum prescribed under the Industrial Disputes Act is not competent to adjudicate this question. Therefore, we find that this application is maintainable.

6. From the notice dated 8.3.1993, Annexure R-1 to the counter of the respondents, it is seen that the list of casual mazdoors working under Divisional Engineer, Microwave Mtnce. Hyderabad has been published on 8.3.93. Therefore, the contention of the applicant that notice as required under Rule 77 of the Industrial Disputes Act (Central) Rules, 1957 has not been published is found to be untenable. The learned counsel for the applicant argued that while Rule 77 of the Industrial Disputes (Central) Rules,

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sent

as and when work becomes available anywhere under the division. Therefore, we find that the retrenchment has been effected in accordance with the provisions of Industrial Disputes Act.

9. In the result, the application is disposed off with a direction to the respondents to include the name of the applicant at an appropriate place commensurate with the length of his service in the list of casual mazdoors kept under the fourth respondent and to re-engage the applicant as and when work becomes available anywhere in the division in preference to casual mazdoors with lesser length of casual service than the applicant. There is no order as to costs.

(A.B.GORTHI)  
Member(Admn)

(A.V.HARIDASAN)  
Member(Judl.)

Dated: 21-3 1995

*Arul*  
23-3-95  
Dy. Registrar(Judl.)

mvl

Copy to:-

1. The Asst. Engineer, UHF Mtce., DRDL, Kanchanbagh, Hyd.
2. The Divisional Engineer, Microwave Mtce Sai Nilayam, 6-1-85/10, Saifabad, Hyd-4.
3. The Director, Mtce. STSR 6-1-85/10 2nd floor Saifabad, Hyd-4.
4. The Divisional Engineer, Telecom, Hyd(Rural), Hyd-50.
5. One copy to Sri. C.Suryanarayana, advocate, CAT, Hyd.
6. One copy to Sri. V.Bhimanna, Addl. CGSC, CAT, Hyd.
7. One spare copy.
8. one copy to Library, CAT, Hyd.

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007-851/43

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(C)

AND

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

DATED : 21/3/95

ORDER/JUDGEMENT.

M.A./R.P./C.P.No.

O.A.No.

in  
851/93

Admitted and Interim directions  
issued

Allowed

☒ Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Rejected/Ordered

☒ No order as to costs.

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YLKR

