

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 238/93.

DE. of Decision : 7-10-94.

Mohd. Ghousuddin

.. Applicant.

Vs

1. The Sub-Divisional Officer,
Telecom, Sangareddy-502 001.
2. The Telecom Distt. Engineer,
Sangareddy-502 050.
3. The Director-General, Telecom
(representing Union of India),
New Delhi.110 001.

.. Respondents.

Counsel for the Applicant : Mr. S.Ramakrishna Rao

Counsel for the Respondents : Mr. V.Bhimanna, Adl.CGS^L.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

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

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8-5-92 for leave and permission to leave headquarters, ^{the} leave was refused by the 1st Respondent vide his letter dt.8-5-92 and that the notice at Annexure A-5 was served on him at a time when he was laid up. It is the further case of the applicant that though in the notice at Annexure A-5 it has been stated that he has been absconding and absenting from the work spot and never turned up for duty ^{after} till 1-6-92, while he had actually performed duties for 16 days in June, 1992 and 5 days in July, 1992, and that there was no reason for taking action against the applicant as was done by the Respondent No.1 in Annexure-5. The applicant says that when he recovered from illness, ^{and} he ~~was~~ reported ~~for~~ duty, he was served with the impugned order dt.5-10-92 and there after he was ^{not} taken into duty. The applicant contends that the action of the Respondent No.1 is illegal, ^{and} violative of section 25 F of I.D. Act, and therefore he prays that the impugned order may be set aside and the Respondents be directed to reinstate the applicant in service with full back wages, continuity of service and all other attendant benefits.

3. In the reply statement filed on behalf of the Respondents, the allegations in the application that the facts stated in the notice at Annexure A-5 that the applicant was absconding from 1-6-92 is not correct that he had performed duty for a certain number of days in May, June,

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July, has not been controverted. On the other hand it has been categorically admitted by the Respondents that the applicant had performed duty as claimed by him in the month of May, June, and July, 1992. The Respondents ~~seem~~ ^{to} justify the impugned order on the ground that as the provisions of CCS(CCA) Rules are not applicable to a temporary Mazdoor and the termination of the services of the applicant after giving him a months notice was perfectly in order. ^{according to him} Therefore this action does not call for judicial intervention.

4. We have heard Shri Sanaka Ramakrishna Rao, learned counsel for the applicant and Shri V.Bhimanna, learned standing counsel for the Respondents and we have also carefully perused the entire materials available on the file. The fact that the applicant was conferred temporary status with effect from 1-10-89 is not in dispute. The further fact that the applicant's services were dispensed with after giving him a month's notice for the reason that he was absconding from the work and that no enquiry was held to establish this ^{allegation} ~~action~~ ^{against} of the applicant is also not in dispute. The Govt. of India has evolved a scheme for grant of temporary status and regularisation of Casual Mazdoors working in the Telecommunications Department. Annexure to this scheme at para-9

~~Sto annexure reads as follows :-~~

reads as follows :-

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"If a Casual Labour with Temporary Status commits a mis-conduct and the same is proved in an enquiry, after giving reasonable opportunity, his services will be dispensed with, then they will not be entitled to encashment of leave on termination of service."

The above noted provision incorporated in the annexure to the scheme clearly indicates that even though the provisions of CCS (CCA) Rules may not be applicable to a Casual Labour with Temporary Status, if such Mazdoor is to be removed from service, the mis-conduct has to be proved in an enquiry after giving ^{him} the applicant reasonable opportunity to defend himself. Obviously and admittedly no such enquiry has been held and no opportunity has been given to ^{the applicant} ~~prove~~ ^{to meet the allegation against him.} ~~that he did not abandoned from the work.~~ Further as admitted by the Respondents, the allegations contained in the notice dt.1-9-92 that he absconded ^{from 1-6-92} and never turned up ^{thereafter} for work is incorrect. The removal of an employee for a mis-conduct is not retrenchment. The action taken by the 1st Respondent in issuing a month's notice purported ^{to be} under section 25 F of ID Act is also not in consonance with the requirements. Even assuming that the Respondent No.1 issued a notice of retrenchment, then also the mandatory ~~xxxxx~~ requirements of that section have not been complied with in this case, in as much as the retrnchment ~~xxxx~~ compensation was not ^{offered} ~~sanctioned~~ simultaneously. However, since the applicant is a Casual Mazdoor, ^{on} ~~xxxx~~ whom temporary status has been conferred, if his services were to be dispensed

5/2/2007

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3. The Director General, Telecom, (representing Union of India), New Delhi-001.
4. One copy to Sri. S. Ramakrishna Rao, advocate, CAT, Hyd.
5. One copy to Sri. V. Bhimanna, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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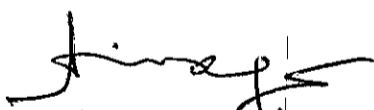
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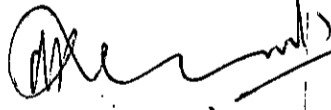
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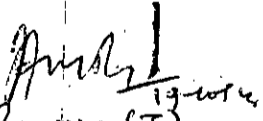
with in accordance with the scheme evolved by the Respondents themselves. It was obligatory on the part of the Respondents to hold an enquiry into the mis-conduct giving the applicant an opportunity to defend himself. This having been not done, we are of the considered view that the termination of the service's of the applicant is illegal, arbitrary and liable to be set aside.

5. In the result, the application is allowed and the Respondents are directed to re-instate the applicant into service forth with at any rate not later than within 15 days from the date of receipt of this order. The applicant is entitled to have the period ~~during~~ ^{was kept} ~~the~~ ^{other than back wages} for which he is kept out of service treated as ~~on~~ ^{an} duty for all purposes. We also ~~made~~ it clear that the applicant is not entitled for any back-wages for this period. No order as to costs.

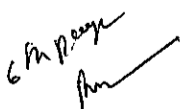

(A.B. GORTHI)
Member (A)


(A.V. HARIDASAN)
Member (J)

Dt. 7th October, 1994.
Dictated in Open Court.


Dy. Registrar (J)

avl/



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OA. 238793

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

Dated: 7.11.94

ORDER/JUDGMENT.

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

G.A. NO.

IA
238793

T.A. NO.

(W.P. NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

NO SPARE COPY

Central Administrative Tribunal
DESPATCH
20 OCT 1994
HYDERABAD BENCH.

YLKR

19/10/94