

(35)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

D.A. 336/94.

Dt. of Decision : 3-6-94.

P. Muniraja

.. Applicant.

1. The Sub-Divisional Officer,
Telecom, Chittoor-517 001.
2. The Telecom District Manager,
Tirupathi-517 501.
3. The Chairman, Telecom
Commission(rep. Union of India)
New Delhi - 110 001.

.. Respondents.

Counsel for the Applicant : Mr. C.Suryanarayana

Counsel for the Respondents: Mr. N.R.Devaraj, Sr.CGSC.

CORAM:

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

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

36

O.A.No.336/94

O R D E R

[As per Hon'ble Sri A.V.Haridasan, Member(J)]

The applicant who was a casual mazdoor under the SOOT, Chittoor, the 1st respondent, has in this application filed U/s 19 of the A.T.Act challenged the legality of the order dt.14-12-92 of the 1st respondent. His services were terminated at the end of a period of one month from the date of issue of that order. He prays that quashing the impugned order (Annexure A5) the respondents should be directed to reinstate the applicant in service with full back wages, continuity of service, protection of seniority and all other attendant benefits. The facts in brief as alleged in the application are as follows.

2. The applicant was first recruited as a casual mazdoor under the Assistant Engineer, Telecom, CXL Equipment Division, Madras w.e.f. 16-7-84 and having worked upto 31-12-87 he had a total number of 1049 days of casual work to his credit. After a gap of about two months he rendered service under the 1st respondent from 1-1-88 until 22-1-93 on which date his services were terminated. He had worked for 1007 days. The applicant's name was shown in the muster roll from the inception of his service till the date of termination of his services (A-1). Temporary status was conferred on the applicant along with 24 other casual mazdoors of Chittoor Telecom District by order dt.10-4-90 (Annexure-A2). On 1-5-92 the 1st respondent issued a

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letter to three casual mazdoors who attained the temporary status including the applicant directing them to produce certificate(s) of discharge from the concerned authorities for the periods shown against their names before 10-5-92. In this communication at Annexure-A3, though the applicant was employed between 7/84 and 12/87, as seen from Annexure A-1 his period of employment was shown as 12/84 to 2/88. As the applicant was directed to produce the discharge certificate from after four years of his leaving/his earlier unit he could produce only the Annexure-A1. The applicant made a representation on 8-9-92 to 2nd respondent through the ~~1st~~ respondent requesting that the number of ^{days of} casual service to his credit may be authenticated in connection with a deputation to TCIL. The 1st respondent had on 9-9-92 in his remarks to the Asst. Engineer, HRD, Tirupati recommended that the M.R. Books of the mazdoor could be submitted by the applicant for deputation was also forwarded by the respondent to TCIL. While so, the impugned order at Annexure A-5 was issued all of a sudden stating that the applicant's service would stand terminated on the end of the period of one month from the date of receipt of the notice for the reason that on cross-verification with the records of the office of the Director, C.C.P., Madras, dates records submitted by the applicant from 12/84 to 2/88 did not appear to be genuine. The applicant maintains that the termination of the services of the applicant, an employee who has rendered service for about 7 years and has acquired temporary status, on the basis of the unilateral decision taken without giving him an opportunity to show cause against the

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for

amounts to violation of principles of natural justice and the action not being followed by a notice of retrenchment as required U/s 25(F) of the I.D.Act amounts violation of the provisions contained in the Industrial Disputes Act, ^{that} and for these reasons the impugned order is liable to be struck down.

3. Though the application was posted/several occasions the respondents did not choose to file a reply statement. When the application came up for hearing today, Sri Devaraj, learned Sr.CGSC read from a draft counter reply/under instructions in which it was stated that ~~as on~~ ^{on} an enquiry made by the respondents with C.C.P., Madras, it was revealed that the Muster date records submitted by the applicant from 12/84 to 2/88 did not appear to be genuine, the applicant's services were terminated after giving him a month's notice for the misconduct of production of false documents. Sri Devaraj argues that as the applicant was given one month's notice and as action was taken for production of a false record, it cannot be said that the action of the respondents is unreasonable, or unjust.

4. From what is seen from the impugned order Annexure-A5, as also what was argued by the learned counsel for the respondents, it is obvious that the services of the applicant have been terminated giving him a month's notice ~~on~~ the ground that he had produced documents which appeared to be not genuine on cross verification. It is a common case that no enquiry ^{associating} ~~is made~~ the applicant with it had been held before the respondents concluded that

Copy to:

1. The Sub Divisional Officer, Telecom District,
2. The Telecom District manager,
Tirupathi - 517 501.
3. The Chairman, Telecom Commission,
Union of India, New Delhi - 110 001.
4. One copy to Mr.C.Suryanarayana, Advocate, CAT, Hyderabad.
5. One copy to Mr.N.R.Devraj, Sr.CGSC, Hyderabad.
6. One copy to Mr Library, CAT, Hyderabad.
7. One spare copy.

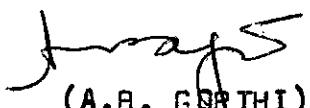
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38

the applicant had produced documents which did not appear to be genuine. The inference that the documents did not appear to be genuine is a unilateral one admittedly drawn by the respondents, of course, on the basis of certain verifications done by them with C.C.P. office at Madras. Since the impugned order of termination cannot be treated as innocuous order of discharge as it contains a stigma that the applicant produced fake documents, we are of the considered view that the applicant should have been ~~not~~ before passing such an order.

5. In the light of what is stated in the foregoing paragraphs, we have no hesitation to quash that the impugned order Annexure-A5 dt. 14-12-92 terminating the services of the applicant on the expiry of one month ^{on} communication, as that order passed without affording to the ~~.....~~ opportunity of being heard is unjust, arbitrary, unreasonable and illegal. Therefore, we set aside this order and direct the respondents to reinstate the applicant in service forthwith, latest within a month from the date of receipt of communication of this order, and to give credit to the period for which he was kept out of work as duty for the purpose of seniority. We hold that the applicant, in the circumstances of the case shall not be given any back wages for this period. We also make it clear that in case the respondents feel that it is necessary to take action against the applicant for the ~~.....~~, ~~.....~~ open for them to do so but only in accordance with law. There is no order as to costs.


(A.B. GOTHI)
MEMBER (ADMN.)


(A.V. HARIDASAN)
MEMBER (JUDL.)

Dated : 3rd August 1994.
(Dictated in Open Court)

kmv/spr.


Deputy Registrar (3)

SPR
R

Contd... /

Typed by
Checked by

Compared by
Approved by

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: 3.8.94 —

ORDER/JUDGMENT. ✓

~~M.C./94/5/C.P.NO.~~

C.A.NO. 336/94 —
~~T.A.NO.~~ (W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions. ✓

Dismissed.

Dismissed as Withdrawn.

Dismissed for Default.

Rejected/Orderd.

No order as to costs. ✓

8

