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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.907/96

decided on : 26-7-96

Between

V.V. Janakeswarudu : Applicant

and

The Sub Divisional Officer
Telecom, Anakapalli : Respondent

Counsel for the applicant : V. Venkateswara Rao
Advocate

Counsel for the respondent :
Addl. CGSC

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HON. JUSTICE SRI M.G. CHAUDHARI, VICE CHAIRMAN

HON. SHRI RAJENDRA PRASAD, H, MEMBER (ADMN.)

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Judgement

Oral order (per Hon. Justice Sri M.G. Chaudhari, VC)

The OA is directed against the order of retrenchment passed by the Sub-Divisional Officer, Telecom, Amakapalle dated June, 1996 (date nil). The said order is in the nature of retrenchment and directs that the applicant shall stand retrenched from the Department after expiry of one month of notice period. It is mentioned that notice is given as per Section 25(F) of Industrial Disputes Act. It also states that the applicant will be paid retrenchment compensation under section 25(F) of the Act. Para-2 of the order states as follows :

"It is alleged that the working days between 1/84 to 6/84 and 1/85 to 12/85 submitted by the candidate and said to have been worked by the candidate Sri V.V. Janakeswarudu in Bobbili Sub Division of Vizayanagaram Division is found to be ingenuine. Therefore, the candidate Shri V.V. Janakeswarudu wilfully cheated the Department by submitting ingenuine days to gain employment in this Division."

2. Learned counsel for the applicant submits that the reason stated in the order amounts to attaching a stigma to the applicant and therefore it was incumbent upon the respondent to give an opportunity to the applicant to show that the details of his working days submitted by him were genuine. The learned counsel, further, submitted that the order has resulted in penal consequences being faced by the applicant. He also submits that the respondent could not have retrenched the applicant and if they proposed to terminate his service they should have held a regular Disciplinary Inquiry. Learned counsel submits that there has been gross violation of principles of Natural Justice

[Signature]

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as well as proper procedure ~~was~~ not being followed, the order is illegal and should be quashed.

3. Although the order used the word "ingenuine" that can only be understood to imply that it is being conveyed that the details given by the applicant were not correct and did not fulfil the requirement of working days and having given inaccurate statement since was the basis to gain employment in the Division he was considered fit to be retrenched. Understood in this light the order ~~may~~ not be construed as attaching a permanent stigma to the applicant. The words "willfully cheated" also are covered by the above clarification which we had hereby make.

4. In so far as the procedural part is concerned the respondents have complied with the requirement of Section 25(F) of ID Act.

5. In order to satisfy ourselves about the correct position we have looked into the record of previous OA.1167/95. That OA was filed against the earlier order of retrenchment. That order in addition to stating that the details given of the working days are of ingenuine it was also mentioned that there was no work further for his engagement and therefore he was retrenched. To the knowledge of the applicant this ground was communicated much earlier. Moreover, in that OA the respondents had filed their counter in which they had explained that while working as casual mazdoor under SDO, Telecom, Anakapalli, had ^a ~~a~~ ^{was} complaint received against him and working days particularly prior to 30-3-1985 submitted by him were verified and found to be not genuine and as such (provisional) retrenchment notice was issued. The respondents had even at that time also asserted that the applicant had

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by furnishing ingenuine working days gained entry as casual mazdeer in Anakapalli Sub Division. They also stated that the applicant was disengaged mainly on the ground he had produced fake mazdeer days prior to 30-3-1985. It was reiterated that the applicant was initially engaged as casual mazdeer with effect from 1-6-1989. He has gained employment by submitting false working days and the days before 30-3-1985 were got verified and found to be incorrect and ingenuine and that subsequent days worked does not matter and that shows that the applicant had secured the employment for the first time in 1989 and on verification it was discovered that he had not worked during 1984-⁸⁹ as claimed by him. There is nothing produced in the instant OA to show that he was actually engaged and worked between 1984-⁸⁹. The applicant has not chosen to give any specific details about the period he had worked or whether he had been serving despite the fact that in the earlier OA this question had been specifically raised by the respondent. Under the circumstances we see no reason to say that the verification made by the respondent was wrong. The facts narrated in the OA state that the applicant was engaged during the period from 1-3-1984 to 31-5-1985 at Bobbili Sub Division. After 1985 he was engaged for a period of two months from 1-5-1988 to 30-6-1988 in Anakapalli Sub Division. It was thereafter on 1-6-1989 that he was again engaged. The breaks, therefore, occurred between 1985 and 1988 and between 1988-89. The applicant approached this Tribunal in OA.720/94 claiming benefit of regularisation scheme 1989. The question was not adjudicated as the OA was disposed of as infructuous as the respondent stated that the retrenchment notice issued at that time will not be acted upon. Thereafter second notice was issued against which the applicant filed OA.1167/95. That OA was

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disposed of by quashing the order on the ground that proper procedure was not followed. It is thereafter the present impugned notice was issued.

6. Having regard to the provisions of Section 25 (F) of ID Act, we find no ground to hold that the procedure provided therein had not been followed while issuing the impugned notice.

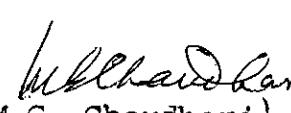
7. The applicant as it is being that of a casual mazdoor cannot be described as regular employee of the respondent. There was no relationship of employer and employee between the respondent and the applicant. Hence in our view question of holding of regular disciplinary inquiry for termination of service cannot arise. Provisions of Section 25(F) of ID Act being applicable this could be invoked to pass the impugned order against the applicant he being only a casual mazdoor on as of the date of the order.

8. The ground of principles of Natural Justice is not attracted in the facts of this case. The principles of Natural Justice is an 'Equitable' doctrine. It is one of the rules of Equity that persons seeking equity must come with clean hands. The facts in the case ^{do} did not warrant such an inference to be drawn.

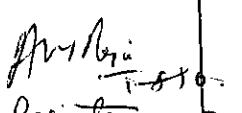
9. That only leaves the question of stigma which we have already clarified above. For the aforesaid reasons the grievances of the applicant cannot be entertainable nor the OA has any merit.

10. The OA is accordingly rejected.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhary)
Vice Chairman

Dated : July 26, 96
Dictated in Open Court


Deputy Registrar (D.R.)

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0.A.907/96

To

1. The Sub Divisional Officer,
Telecom, Anakapalli.
2. One copy to Mr.V.Venkateswar Rao, Advocate, CAT.Hyd.
3. One copy to Mr.Addl.CGSC. CAT.Hyd.
4. One copy to Library, CAT.Hyd.
5. ~~Copy to all reporters as per standard list of CAT.Hyd.~~
6. One spare copy.

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 26-7-1996

ORDER/JUDGMENT

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

in

O.A.No. 505/96 907/96

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

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal
DESPATCH

2 SEP 1996

हैदराबाद अदायगीठ
HYDERABAD BENCH