

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

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O.A.No.654/97.

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Date of decision: 20-2-1998.

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Between:

Sri B. Srinivas.

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Applicant.

and

1.General Manager, Telecom District,
Visakhapatnam 530 020.

2.Sub Divisional Engineer (Cables),
Mindi, Visakhapatnam -12.

3.Sub-Divisional Engineer (Groups),
Department of Telecom, Madhurawada,
Visakhapatnam 530 040.

4.Sub-Divisional Engineer, Phones-I,
Krishna Nagar, Visakhapatnam. Respondents.

Counsel for the applicant: Sri M.P.Chandramouli.

Counsel for the respondents: Sri N. R.Devaraj.

CORAM:

Hon'ble Sri A.V.Haridasan, Vice-Chairman(J),Ernakulam Bench.

Hon'ble Sri H.Rajendra Prasad,Member(A)

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JUDGMENT:

(per Hon'ble Sri A.V.Haridasan,Vice-Chairman(J),
Ernakulam Bench)

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Heard Sri M.P.Chandra Mouli, learned counsel for
the applicant and Sri N.R.Devaraj, learned counsel for the
respondents.

The applicant was first engaged as a casual driver on 2-12-1992 and thereafter his services were utilised as a casual Mazdoor with effect from February, 1995 till he was disengaged with effect from 2.5.1997. He submits that his services were terminated without assigning any reasons and without giving him an opportunity to show cause while work was still available. According to the applicant the action is not only violative of the provisions contained in Chapter V-A of the Industrial Disputes Act but also amounts to violation of principles of natural justice. The applicant has, therefore, filed this application for a declaration that the termination of his services abruptly without notice is illegal and unjust and opposed to principles of natural justice and prays for re-engagement with all consequential benefits.

The application was admitted and the respondents were given sufficient time to file their counter. The respondents have not so far filed their reply. Therefore the case has come up before us for final hearing.

When the application was taken up, the learned counsel for the respondents under instructions from the official respondents submits that the applicant was dis-engaged as the Competent Authority found that the applicant obtained initial engagement by producing a fake experience certificate. However, the counsel for the respondents conceded that the dis-engagement of the applicant for the specific reason of having obtained the initial engagement by producing a fake document was made without giving the applicant a Notice and an opportunity

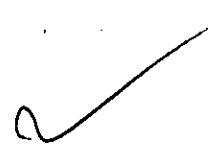
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to show cause against it. He also agrees that the action is not sustainable. While agreeing that the respondents may be directed to re-engage the applicant subject to availability of work he pleads that no back wages may be awarded to the applicant.

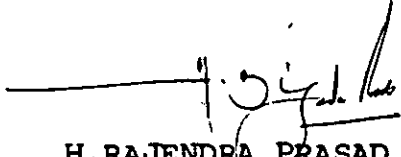
The learned counsel for the applicant submits that the applicant has no objection if the respondents reinstate him even without back-wages but the period during which he was kept out of service be treated as period on casual service for the purpose of counting the number of days for the benefit of obtaining temporary status etc., as casual mazdoor.

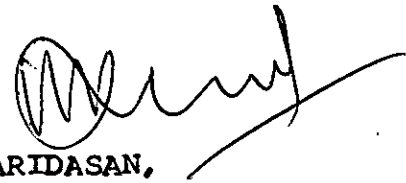
In the light of the submissions of the counsel for both sides, the application is being disposed of by directing the respondents --

- i) to reinstate the applicant in service forthwith treating the period during which he was kept out of service as period on casual service for the purpose of counting the number of days but without paying any back wages;
 - ii) It is made clear that this order shall not preclude the respondents from taking any action, if they deem it proper and necessary, on the allegation that a fake experience certificate was produced by the applicant for obtaining initial employment as casual driver.
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iii) The applicant on reinstatement shall be continued in casual service so long as the work is available in preference to persons with lesser length of casual service than him.

With the above directions, the O.A., is disposed of. No order as to costs.


H. RAJENDRA PRASAD
Member (A)


A.V. HARIDASAN,
Vice-Chairman (A)
Ernakulam Bench.

Date: 20.2.1998.

Dictated in open Court.


Deputy Registrar

SSS.

O.A.654/97.

To

1. The General Manager, Telecom Dist.
Visakhapatnam-020.
 2. The Sub Divisional Engineer(Cables)
Mindi, Visakhapatnam-12.
 3. The Sub Divisional Engineer(Groups)
Dept.of Telecom, Madhurawada,
Visakhapatnam-040.
 4. The Sub Divisional Engineer, Phones-I
Krishna Nagar, Visakhapatnam.
 5. One copy to Mr.M.P.Chandra mouli, Advocate, CAT.Hyd.
 6. One copy to Mr. N.R.Devraj, Ar.CGSC. CAT.Hyd.
 7. One spare copy.
- S. pvm one copy to MR (A) CAT-Hyd.

11/3/98

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE *AV Hari Dasan*
VICE-CHAIRMAN (*Emakulan Bandy*)
AND

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

DATED: 20-2-1998

ORDER/JUDGMENT:

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

O.A.No. *654/97* in

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

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेवण/DESPATCH
- 3 MAR 1998
हैदराबाद न्यायपीठ
HYDERABAD BENCH