

Annex A 7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR.

Date of order: 4.2.93

O.A.No.347/92
Prem Swaroop : Applicant
O.A.No.349/92
Hari Kishan : Applicant
O.A.No.352/92
Harbir Singh & : Applicants
Madan Lal
O.A.No.353/92
Shyam Babu : Applicant

Versus

Union of India & Ors. : Respondents
Mr.Virendra Lodha : Counsel for applicants
Mr.N.C.Chourhury : Counsel for respondents

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Hon'ble Mr.Justice D.L.Mehta, Vice Chairman
Hon'ble Mr.B.B. Mahajan, Member (Adm.).

PER HON'BLE MR.B.B.MAHAJAN, MEMBER (ADM.).

On the consent of the parties, these cases
were taken out of turn.

2. We have heard the learned counsel for the
parties and perused the records. Since these
applications involve common questions of law and
fact, these are being disposed of by this common
orders.

3. The applicants had filed these applications
under Sec.19 of the A.Ts Act and prayed therein
that they were appointed under the Archeological
Survey of India on different dates between 24.5.85
and 18.12.86 and have been retrenched without any
reasons on different dates between 27.2.88 and
28.5.88.

4. Applicants Harbir Singh and Madan Lal
(OA No.352/92) and Hari Kishan (OA No.475/88) have
also submitted that certain persons had been

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appointed as Casual Labour. They have submitted that the termination of their services in violation of Sec.25F of the Industrial Disputes Act. It is an admitted position from the reply filed by the respondents themselves that the applicants were working from the dates indicated by them on daily wages. The respondents have stated that the applicants had left the work on their own or could not be further engaged due to lack of work. However, it has not been stated that services were terminated after taking disciplinary action in case of abandonment of work. This plea also does not plausible as the applicants have filed the application in the Tribunal soon after their alleged abandonment. In either case, therefore, it amounts to retrenchment under Sec.2(oo) of I.D.Act. It is an admitted position that no notice or retrenchment compensation was paid. The retrenchment was, therefore, void on account of violation of Sec.25F of I.D.Act.

5. In the result, the O.As are allowed and termination of services of the applicant by verbal orders is set aside. The applicant shall be treated as Casual Labour of the respondents and they should be taken back on duty immediately. As far as the question of back wages are concerned, we are not inclined to pass an order and the applicants are directed to move an application under Sec.33(c)(2) of the Industrial Disputes Act before the Labour Court for computation of the wages according to law. They will however, be entitled for future wages from the date of this order at the rates applicable to casual labour in the Department. As far as equal pay for equal work is concerned, this matter cannot be decided in these applications. The applicants will be at liberty to file a separate O.A. in this matter. However, it is observed that if any higher pay to the junior casual labour has been extended or any other benefit has been extended to them, the case of the applicants should also be considered

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to avoid multiplicity of litigation. However, it should not be considered as a direction. The applicants shall also ^{be} at liberty to file a fresh O.A. for regularisation of their service, if they so desire. With these observations, the O.As are disposed of. The parties to bear their own costs.

(B.B. Mahajan) *Shri Gopal* (D.L. Mehta)
Member (Adm) *D.L. Mehta* Vice Chairman
Secretary Officer (J.A.C.U.R) 24/2/83
Central Adm. J.A.C.U.R
Jaipur B.n.n. J.A.C.U.R

Pradeep Lal
AC