

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.(1) OA 1991/1991 Date of decision: 6.1.92
(2) CCP 220/91 in OA 1991/91
(3) CCP 27/91 in OA 1991/91

Shri Suresh Kumar & OthersPetitioners

Vs.

Mr. Vijay Anand & AnotherRespondents

For the PetitionersShri D.N. Goburdhan,
Counsel

For the RespondentsShri P.S. Mohendru,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K.
Kartha, Vice Chairman(J))

The petitioners claim that they have worked for over 10-13 years in the Northern Railway as casual labourers. According to the respondents, they have worked only for about six years. They have been working in the Jind Junction for the last two years. They have prayed for their regularisation, that their lien and seniority be made in the Delhi Division, that their transfer to any other place be stopped, that they be transferred only after they are screened and made permanent and that their Headquarters be

fixed at Jind.

2. While admitting the application, the Tribunal passed an ex-parte interim order on 30.8.1991 directing the respondents to allow the applicants to continue to work at the Headquarters Office at Jind so long as work exists and that their services should not be replaced by other casual labourers.

3. On 13.9.1991, when the question of continuance of the interim order came up for consideration, the learned counsel for the respondents opposed the continuance of the interim relief on the ground that the applicants have been shifted from Jind to Narwana along with the project in which they had been working. This was not admitted by the learned counsel for the petitioners.

4. On 24.9.1991, the petitioners filed CCP No.220/91 alleging that the respondents have not complied with the interim orders passed on 30.8.1991. When it came up for directions on 21.10.1991, the learned counsel for the petitioners submitted that the petitioners have not been paid

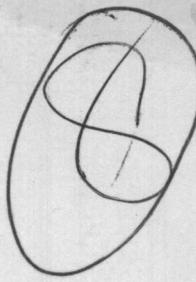
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their wages for the period of service rendered by them.

The Tribunal directed the respondents to pay them wages during the period of their engagement. The interim order passed on 30.8.1991 was also directed to be continued.

5. On 30.10.1991, the petitioners filed OCP 271/91 alleging that the respondents wilfully and deliberately did not comply with the interim orders passed on 21.10.1991 and 30.8.1991.

6. We have gone through the records of the case and have considered the rival contentions. The case of the petitioners is that they have been medically examined preparatory to their regularisation but they have not been regularised which is long overdue. There is plenty of work pending at Jind where they have been working for the last two years. They have no objection to transfer anywhere from Jind after regularisation. Nirwana is about 40 Kms. away from Jind. The respondents have deputed five gangs for work at Nirwana giving them T.A. etc. but they have denied Railway Passes ^{and similar facilities} to the petitioners. They have not been paid anything from 1.9.1991.



7. According to the respondents, the petitioners are project casual labourers. Though they have acquired temporary status, their regularisation depends on the availability of vacancies. It was only a question of shifting the petitioners from Jind where there was not enough work to Nirwana where there was work and no transfer was involved.

8. There is nothing on record to indicate that the respondents are engaging or have engaged any new casual labourers at Jind to handle the work which had been entrusted to the petitioners at Jind. There is also nothing on record to indicate that there are 81 vacancies at Jind to regularise the petitioners and accommodate them at Jind or elsewhere. In our opinion, it will not be appropriate to issue any directions to the respondents to restrain them from transferring the casual labourers from Jind to Nirwana on the ground that the work at Jind has been completed and that they have been rendered surplus there. It is true that casual labourers, are not ordinarily liable to transfer as per Rule 2501 of the Indian Railway Establishment Manual. However, in case they are rendered surplus in one place and are deputed elsewhere

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depending on the availability of work, the same cannot be faulted.

9. Be that as it may, the respondents have admitted in their supplementary counter-affidavit filed on 20.12.1991 that there is balance quantity of work at Jind in connection with providing double line between Jind and Barsola (approximately eight kilometres) and between Kinana and Jind (approximately 13 kilometres) for which plans are under revision and that it cannot be executed till the plans are approved, scheme of remodelling is approved, site is cleared and made available for laying of rails and carrying out the necessary track connections. Till the plans are finalised and site is cleared and made available, no labour can be retained for the same in anticipation of completing the said work for which no schedule can yet be fixed in the circumstances.

10. The petitioners have alleged that some casual labourers junior to them are still working at Jind and that a gang of 21 workers have been sent on T.A. to

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Nirwana from Jind and another gang of 21 workers have been sent on T.A. from Rohtak to Jind. The applicants have no objection if they are sent on T.A. to any place in Delhi Division provided their Headquarters remain at Jind.

11. In the conspectus of the facts and circumstances of the case, the main application and the CCPs filed thereunder are disposed of with the following orders and directions:-

(1) The respondents shall consider the regularisation of the services of the applicants in posts commensurate to their qualifications and experience in the existing or future vacancies and in accordance with the length of service put in by them as casual labourers.

(2) The respondents shall reassess the requirement of staff at Jind keeping in view, the volume of work pending there and accommodate as many applicants as possible at Jind till they are regularised in suitable posts. In case it is not feasible to accommodate them at Jind, they may be sent on temporary transfer to Nirwana or other nearby places where there may be need for casual labourers. In that event, in the interest of justice and fairplay, they shall be given free Railway passes and T.A. as is being given to other casual labourers who

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have been deputed for work at Nirwana and other places.

The applicants shall be paid their wages for the period from 1.9.1991 onwards within a period of fifteen days from the date of communication of this order till such time they are given Railway passes and other facilities mentioned above.

(3) OA 1991/91, CCP 220/91 and CCP 271/91 are disposed of accordingly. Let a copy of this order be placed in all the three case files. The notices of contempt are also discharged.

There will be no order as to costs.

D.K.Chakravorty
(D.K. CHAKRAVORTY)
MEM BER (A)

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6/1/92
(P.K. KARTHA)
VICE CHAIRMAN (J)