

6

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn. No. OA-2094/92

Date of Decision: 15.1.1993.

Shri Narayan Singh and
45 Others

.... Applicants

Versus

General Manager,
Northern Railway and
Others

.... Respondents

For the Applicants

.... Shri B.S. Mainee, Advocate

For the Respondents

.... Shri R.L. Dhawan, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman (J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. To be referred to the Reporters or not, *Yes*

JUDGEMENT

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

The applicants in this application have worked as casual Gangmen in the Northern Railway for the period from 1982 to 1986 in the PQRS Unit of the Delhi Division. They have prayed in this application filed under Section 19 of the Administrative Tribunals Act, 1985 for setting aside and quashing the impugned order dated 30.7.1992 by which

a

.... 2.

100 junior-most casual labourers of the PQRS Unit have been temporarily transferred for Gauge Conversion Project at Bikaner. They have prayed that the respondents be directed to screen them, to regularise them and to extend to them the benefit of the insurance scheme. They have also prayed that the respondents be directed to maintain their Headquarters at Delhi, where they were appointed.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. According to the applicants, they being casual labourers, are not liable to transfer. They have, however, no objection to the transfer after screening and regularisation. They have acquired temporary status and their screening and regularisation have ~~has~~ been long overdue. They were appointed in the Delhi Division in the PQRS Unit. They were temporarily shifted to Ambala for execution of track renewal work in 1988. From there, they were transferred to Doraha, near Ludhiana. Their transfer to Doraha was challenged in OA-1458/90 (Virender Singh & Others Vs. Union of India) which was disposed of by judgement dated 30.10.1990. The Tribunal directed that all the candidates who had not already been screened, should be screened in the Delhi Division according to the vacancies available in that Division and the remaining, in the Ambala Division, as per the vacancies available there. Once they

are screened and found fit, they should be regularised against the vacancies in the Delhi and Ambala Divisions and then given all facilities as admissible to normal railway employees. The question of paying any arrear, TA/DA in the case of casual labourers not already regularised, did not arise. The Tribunal also directed that the work of screening and regularisation should be completed within three months. The respondents were also given the liberty to utilise the services of the applicants anywhere according to the needs of PQRS Unit.

3. Despite the aforesaid directions, the respondents have not screened and regularised all the casual labourers. The applicants have, however, admitted that some of them have been screened and regularised. The applicants are relying upon the direction contained in the judgement in Virender Singh's case that the respondents should utilise the services of the applicants anywhere, depending on the needs of PQRS Unit. By the impugned order, they have been temporarily transferred to Bikaner for the Gauge Conversion Project, which is not part of the work of the PQRS Unit.

4. In implementation of the judgement in Virender Singh's case, the respondents transferred the applicants back to Ambala where they are working at present.

5. The applicants have also relied upon the judgement of this Tribunal in OA-2276/91 (Shri Nawab Ali and 41 Ors. Vs. Union of India & Others) which was disposed of by

a

9

judgement dated 31.1.1992. In the said judgement, the Tribunal directed the respondents to appoint an Expert Committee to recommend modifications in the scheme prepared by the railways for regularisation of casual labourers so as to protect the interests of long-term temporary workers. Pending this, the respondents were directed that the applicants shall be treated as having their Headquarters at Delhi even though they might be sent for work at projects outside Delhi, for the limited purpose of protection of their seniority in the Delhi Division. The Tribunal also directed that the applicants should be given the facility of subscribing to the insurance scheme as in the case of other government servants after relaxing the relevant rules.

6. The respondents have stated in their counter-affidavit that the PQRS Unit at Ambala is utilised for track renewal work and workers have to be utilised wherever such work exists. Otherwise, their services will have to be terminated if there is no work. According to them, the gauge conversion work is also related to track and that is why, the impugned order was passed. The temporary transfer of the applicants has been made in the exigencies of service and on administrative grounds. The respondents have stated that the applicants will be screened and regularised in their turn and depending upon the availability of permanent vacancies.

2

7. After hearing both sides, we are of the opinion that the applicants, who have worked in the PQRS Unit, should be continued to be engaged for the work relating to the PQRS Unit wherever the same is available. In the absence of work, we see no legal objection to the transfer of the applicants for work in any other Unit, depending on its availability.
8. The respondents should also consider screening and regularisation of the services of the applicants in their turn, according to their seniority and also depending on the availability of permanent vacancies.
9. The learned counsel for the applicants stated that the work in which the applicants have been engaged, is of hazardous nature and that some of the colleagues of the applicants have already been killed while working on the track without the protection of insurance and consequential benefits to their families. We have considered this aspect of the matter in our judgement in Nawab Ali's case. We, therefore, direct that the applicants should be given the facility of subscribing to the insurance scheme as in the case of the other Government servants after relaxing the relevant rules. The application is disposed of accordingly. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 15/11/93
Administrative Member

amud
15/11/93
(P.K. Kartha)
Vice-Chairman(Judl.)