

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 697/92
T.A. No.

199

(V)

DATE OF DECISION 26.3.92

<u>Shri Mangal Lal and Others</u>	<u>Petitioner Applicants</u>
<u>Shri K.R.R. Pillai</u>	Advocate for the Petitioner(s) Applicants
Versus	
<u>Union of India</u>	Respondent
<u>Shri P.S. Mehendru</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kaptha, Vice-Chairman (Judl.)

The Hon'ble Mr. A.B. Gorthi, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? /N
4. Whether it needs to be circulated to other Benches of the Tribunal? /N

JUDGEMENT (ORAL)

The grievance of the 74 applicants before us is that

Respondent No. 2 (Chief Administrative Officer, Northern Railway, Delhi) has sought to relieve them from their posting at Delhi as Casual Labourers and to shift them to Jodhpur on the ground that the Unit in which they had worked, has been wound up. They have also prayed for an interim order for restraining the respondents from sending them outside Delhi.

2. On 12.3.1992, when the application came up for admission, an ex parte interim order was passed to the effect that the respondents are restrained from giving effect to the impugned transfer order whereby the

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applicants have been transferred from their present place of work.

3. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The basic contention of the respondents is that the work in connection with the project in which the applicants were engaged, is over and that there is no further work for the applicants at Delhi. In view of this, they have been shifted to the Chief Engineer (Construction), Northern Railway, Jodhpur, where the work is available.

4. The applicants have contended that there is enough work with the Permanent Way Inspector at Lothian Bridge, Delhi, but this has been denied by the respondents. The applicants have also stated in their application that the major work of widening the railwayline between Delhi and Rewari has been sanctioned. This has not been admitted by the respondents in their counter-affidavit.

5. During the hearing of the case, the learned counsel for the applicant relied upon the provisions of Rule 2005 of the Indian Railway Establishment Manual which provides, inter alia, that casual labourers treated as temporary, are entitled to the rights and benefits admissible to temporary railway servants as laid down in Chapter XXIII of the said Manual. In view of this, it was contended that in the event

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of any transfer or shifting of casual labourer who has acquired temporary status, payment of Travelling Allowance and Daily Allowance is necessary. He also relied upon the decision of the Jodhpur Bench of this Tribunal in Ramniwas Matadeen & Others Vs. Union of India & Others, 1990 (2) ATJ 625.

6. According to the learned counsel for the respondents, when the casual labourer engaged in a project has been rendered surplus, he may be retrenched in accordance with the provisions of the Industrial Disputes Act, 1947, or he may be sent to another place, depending on the availability of work.

7. In a similar case (OA-2276/91 - Shri Nawab Ali and 41 Others Vs. Union of India through the Secretary, Ministry of Railways & Others), casual labourers who had been shifted from Delhi to Jodhpur, had challenged the impugned order of transfer dated 16.9.1991. By judgement dated 31.1.1992, the Tribunal set aside and quashed the impugned order dated 16.9.1991 insofar as it did not protect the seniority of the applicants in the Delhi Division where they had worked for several years. In our opinion, if casual labourers engaged in a project work, are rendered surplus, they have no right to insist that they should be accommodated at the same place where they had worked. However, before shifting them to other places where work may be available,

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the respondents should endeavour to accommodate them in other projects where similar type of casual labourers have been engaged. In our opinion, the shifting of the casual labourers who have been rendered surplus, should be on the basis of 'last come, first go'. In other words, the junior-most casual labourers in the Division in which they had been working, should be transferred first. The seniority of the casual labourers working in one Unit, should be determined in accordance with para. 5.2.1 of the Railway Board's Circular dated 11.9.1986.

8. The further question relates to the payment of Travelling Allowance and Daily Allowance to the casual labourers who have been shifted from one place to another. In our opinion, the decision of the Jodhpur Bench is clearly distinguishable as it did not involve casual labourers who were rendered surplus and who had been shifted to another station for duty. The learned counsel for the respondents stated that railway passes are given to the casual labourers who are shifted from one place to another, but no Daily Allowance is paid to them. Rule 2005 of the Indian Railways Establishment Manual does not specifically state that Daily Allowance is payable to the casual labourers in the event of such shifting. However, in case any other casual labourer who has been shifted in similar circumstances from one station to the another is given Daily Allowance, the applicants should also be

given the same treatment.

9. In view of the above, we direct that the respondents shall give further time of one month to the applicants to join duty at Jodhpur. They shall provide them the necessary passes for the purpose of joining there.

10. The respondents shall prepare the seniority/^{list} of casual labourers working in one unit in accordance with para.5.2.1 of the Railway Board's circular dated 11.9.86 as expeditiously as possible but preferably within three months from the date of communication of this order. Thereafter, they shall consider the case of the applicants for reposting to Delhi as casual labourers in accordance with their respective length of service. We further direct that in case any other casual labourers who have been shifted from Delhi to Jodhpur or other stations in similar circumstances are given Daily Allowance, the applicants should also be given Daily Allowance at the same rates.

11. The application is disposed of on the above lines. The interim order passed on 12.3.1992, is hereby vacated with the aforesaid observations. ^{and directions.} There will be no order as to costs.

Amarsingh
(A.B. Gorthi)
Administrative Member

Deputy
(P.K. Kartha)
Vice-Chairman(Judl.)