

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 698/92

199

T.A. No.

DATE OF DECISION 26.03.1992

Shri Nawab Ali & Ors.~~Petitioner~~ ApplicantsShri B.S. MaineeAdvocate for the ~~Petitioner(s)~~ Applicants

Versus

Union of India & Others

Respondent

Shri P.S. Mohindru

Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, 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? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

JUDGEMENT (Oral)

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

The applicants, who have worked as Gangmen in the Northern Railway, New Delhi, had filed OA-2276/91 which was disposed of by judgement dated 31.1.1992. In the said O.A., they had challenged the shifting of their Headquarters from Delhi to Bikaner by the impugned orders dated 16.9.1991 issued by the respondents on the plea that the project work for which they had been engaged, had been completed in Delhi and that they were being shifted to Bikaner, where project work was available. The Tribunal disposed of the application with the direction to the respondents that the applicants shall be treated as having

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their Headquarters at Delhi for the purpose of their seniority even though they may have been sent for work on projects outside Delhi. The impugned orders dated 16.9.1991 were set aside insofar as they did not protect the seniority of the applicants in the Delhi Division, where they had worked for several years. The respondents were directed to issue appropriate orders to the effect that the Headquarters of the applicants would be at Delhi for the purpose of reckoning their seniority as casual labourers. It was further directed that the applicants should be given the facility of subscribing to the Insurance Scheme, as in the case of other Govt. servants, after relaxing the relevant rules.

2. In the present application, the applicants have challenged the validity of the order dated 24.2.1992 issued by the respondents whereby it has been clarified and confirmed that seniority of casual labourers who have been shifted, will remain in the Delhi Division only for the purpose of regularisation in terms of the aforesaid judgement dated 31.1.1992. It has further been stated that their seniority as existing in the Delhi Division, will not be disturbed in the event of shifting them to different projects outside the Delhi Division.

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3. On 12.3.1992, the Tribunal passed an ex parte interim order to the effect that the respondents are restrained from giving effect to the impugned order dated 24.2.1992 whereby the applicants are sought to be transferred from Delhi to Bikaner.

4. When the case was taken up for hearing today, the learned counsel for the respondents stated that the effect of the stay order passed by the Tribunal on 12.3.1992 is that the order dated 24.2.1992 passed in implementation of the judgement of this Tribunal, cannot be given effect to. He further submitted that the present application is not maintainable as the Tribunal has already upheld the impugned order of shifting of the applicants from Delhi to Bikaner (Under Chief Engineer, Jodhpur), except that the seniority of the applicants in the Delhi Division should be protected. In case the applicants are aggrieved by the judgement of the Tribunal, it was argued, that their remedy lies by way of a review petition, or moving the Hon'ble Supreme Court against the judgement. In other words, it was submitted that the applicants are seeking to reopen the judgement dated 31.1.1992.

5. The learned counsel for the applicants stated that the applicants have worked for the last 10-12 years in the Delhi Division, and that the seniority list has not been

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finalised in the said Division. According to him, if the surplus casual labourers are to be shifted, it should be on the principle of 'last come, first go'. He also relied upon the judgement of the Jodhpur Bench of the Tribunal in Ramniwas Matadeen & Others Vs. Union of India & Others, 1990 (2) ATJ, 625 in support of his contention that a casual labourer who is shifted from one place to another, is entitled to Travelling Allowance and Daily Allowance.

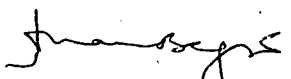
6. We have carefully considered the rival contentions. At the outset, we are of the opinion that the judgement of the Jodhpur Bench is clearly distinguishable as it did not deal with the shifting of surplus casual labourers from one place to another.

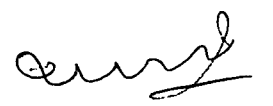
7. As regards the relief sought in the present application, we do not see any justification for quashing the impugned notice dated 24.2.1992 which has been purportedly issued in implementation of the judgement of the Tribunal dated 31.1.1992. The learned counsel for the respondents stated that by the judgement dated 31.1.1992, the respondents have been given three months' time to comply with the directions contained therein and that period has not expired. In compliance with the directions contained in our judgement dated 31.1.1992, the respondents will have

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to prepare a seniority list of the casual labourers of the Delhi Division, based on the length of service and in accordance with para 5.2.1 of the Railway Board's Circular dated 11.9.1986. We direct them to do so as expeditiously as possible but preferably within three months from the date of communication of this order. After the seniority list is so prepared, the cases of the applicants who have been transferred by the order dated 16.9.1991, should be reviewed by them and persons with longer length of service should be accommodated in the Delhi Division to the extent of the availability of vacancies. The application is disposed of on the above lines. The interim order dated 12.3.1992, is hereby vacated with the aforesaid observations and directions. There will be no order as to costs.


(A.B. GORTHI)
MEMBER (A)
26.03.1992


(P.K. KARTHA)
VICE CHAIRMAN(J)
26.03.1992