

4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH.
NEW DELHI.

Date of Decision: 21.05.1992

OA 1212/1992

INDERBHAN & 12 Ors. ... APPLICANTS.

VS.

UNION OF INDIA & ANR. ... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicants ... Shri B.S. MAINEE

For the Respondents ... Shri P.S. MAHENDRU

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

JUDGEMENT (ORAL.)

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER(J).)

The applicants in this case are casual labourers, engaged in the Engineering Branch of the Constructions Wing and by order dated 17.2.92 along with others they were ordered to join at Jodhpur in the same capacity and grade (Annexure A-1). There is a mention in this order that those junior most have been shifted being ^{found} ~~from~~ surplus in the Constructions Engineering Wing at New Delhi in the Survey Unit. The applicants filed this application and obtained an interim direction on 5.5.92 that the applicants need not go in compliance with the impugned order and status quo

↓

....2.

5

- 2 -

as of that day be maintained if the applicants have not already been relieved. The applicants in this application have prayed the relief that the said order be quashed and the respondents be directed to allow the applicants to perform their duties under Senior Civil Engineer (Survey-II), Northern Railway, Tilak Bridge, New Delhi. On the notice issued to the respondents, they filed the reply contesting the application to which a rejoinder has also been filed today before the court with a copy to the learned counsel for the respondents.

Since the matter has been ^{stated} discriminated to be ^{of} an emergency it is taken up for final hearing and disposal ^{at} on the admission stage itself.

The only controversy that remains between the parties is that if the applicants are being sent only on temporary duty to Bikaner by virtue of another order passed subsequently on 30.4.92, then they have no objection provided their seniority at the station is protected and they are posted back to the same place from where they are being made to go and that the Headquarter also be maintained at New Delhi.

.....3.

The learned counsel for the respondents referred to Annexure R-1, issued to individual applicant and argued that the posting and placement of the applicants is only for a temporary period till the construction work in the project at Bikaner comes to an end. After that the applicants shall be again posted to their Headquarter at New Delhi in the same discipline. In view of this, Annexure R-1 also refers to the order dated 17.2.92 which is assailed in the present application. It appears from the impugned order that "junior most surplus Class-IV casual labour of Survey's units" are being transferred and it has been ^{disputed}~~agitated~~ by Senior Civil Engineer (Survey-II) in the letter dated 4.3.92 (Annexure A-2 on record) and the learned counsel for the applicant also pointed out that there is no denial of this fact in the reply filed by the respondents. ↓

In view of the above facts and the arguments advanced with reference to the documents on record, it is ^{not} necessary to go into further details of the various ^{allegations}~~allocations~~ and counter reply given by the parties in the pleadings. It is ^{evident during the arguments by the ld. Counsel for the respts,} made ~~clear~~ that the applicants are being transferred only as a temporary measure and after the work at Bikaner comes to an end they shall be re-posted back at the Headquarter at the last place of posting with all benefits of seniority. ↓

7

- 4 -

The learned counsel for the applicants also referred to the circular of the Railway Board dated 11.9.86 which appears to have been issued after the decision of the case of Inder Pal Yadav decided by the Hon'ble Supreme Court in April 1985 wherein the Railway Board has desired in para 5.2.1 that the seniority list be prepared for each department of each division of Civil Engineering etc. and that will form one unit, though the persons may be working in Survey or other organisation of the same Engineering Department. However, the learned counsel for the respondents has also referred to para 5.2.3 about the revision of the seniority list who covered all project casual labourers who have been in employment at any time from 1.1.85 onwards. A reference to this circular of the Railway Board is not ^{in deciding} helpful ~~and~~ the controversy is involved in the present case because of the specific statement given at the bar by the learned counsel for the respondents that the transfer to Bikaner of these casual labourers is only for specific period and purpose.

.....5.

The other point that remains is about the wages of these applicants of the period they have not reported ^{for} ~~at~~ duties, as alleged by the respondents' counsel after 30.4.92. In this context, the learned counsel has preferred to the endorsement of the bottom at Annexure R-1 where the applicants did not report in the office and so the letter^s were sent to them at their given addresses by registered post. The learned counsel for the respondents has also filed the photo stat extracts of sending these letters individually to the applicants. In view of the clear direction issued on 5.5.92 that the impugned order dated 17.2.92 should not be implemented and status quo of that day be maintained, it is for the respondents to decide about the period from 30.4.92 upto the period the applicants ^{report} ~~joined~~ at the Headquarter ~~with report at the Headquarter~~ for complying the order dated ³⁰ ~~13~~.4.92 and it is expected that the respondents will take a reasonable view of the matter, thinking well that the poor casual labourers should not be deprived of their livelihood, if they are not at fault.

By implication the letter dated 17.2.92

9

- 6 -

stands already set aside by the subsequent order passed by the respondents dated 30.4.92 so far as the applicants are concerned. If the applicants are aggrieved by act of the respondents, they are free to assail the same. The application, therefore, dispose of accordingly.

In the circumstances, parties are left to bear their own costs.

J. P. Sharma

(J.P. SHARMA) 24.5.92

MEMBER (J)