

6 AY  
1

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.770 of 1988

Jagdish and 3 Others ... Applicants

Versus

Chief Public Works Inspector, M.N.Q.  
Northern Railways, Mainpuri & Others .. Respondents

Hon.Mr.Justice Kamleshwar Nath, V.C.

Hon.Miss Usha Savera, Member (A)

(By Hon.Mr.Justice K.Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for a direction to the respondents to take the applicants on job and to pay their salary.

2.           The admitted facts are that the applicants were appointed as Casual Labour in the Northern Railway at Etawah some time in 1982 and continued to work there till April, 1988. The applicants' case is that thereafter they requested for and on their request being considered they were transferred from Etawah to Mainpuri to work under the C.P.W.I. there. Annexures I to IV dated 29.4.88 are said to be the transfer orders. When the applicants reported at Etawah under the purported transfer orders, they were taken on duty and were allowed to work under orders dated 12.5.88, Annexure-V. They continued to work till 23.5.88 and their attendance was recorded in the Muster Roll, Annexure-VI. Thereafter the applicants were not permitted to work at Etawah. The applicants' case is that they made oral requests for being allowed to work but the request was not acceded to therefore they filed the original application on 3.6.1988.

22



3. The reply of the respondents in the Counter Affidavit is that the applicants who were employed as Casual Labour at Etawah were never transferred to Mainpuri and that the purported transfer orders Annexures I to IV are forged documents. It is stated that when the competent authority inspected the work at Mainpuri he was quite surprised to find the applicants working there while they were expected to work at Etawah. It was for this reason that the applicants were <sup>not</sup> permitted to work at Mainpuri beyond 23.5.1988.

4. In the rejoinder it is reiterated that the transfer orders in question had really been passed; some Annexures have also been filed purporting to be the applicants' application for transfer <sup>with</sup> ~~on~~ certain notings indicating that the officer has no <sup>alleged</sup> option to transfer.

5. We have heard Shri Anand Kumar for the applicants and Shri Amit Asthalekar for the respondents. Shri Asthalekar says that even as the purported transfer orders Annexures I to IV are forged so also the various notings on the alleged application for transfer from Etawah to Mainpuri <sup>appears</sup> ~~is~~ to be forged. We notice that these documents have been produced in the rejoinder for the first time and the respondents do not have the opportunity presently to file any documents or affidavit to rebut the same. We might have done so but we notice that the respondents even now treat the applicants to be on the Muster Roll at Etawah although absenting themselves unauthorisedly from 29.4.1988. Shri Anand Kumar for the applicants says that if the respondents allow the applicants to work at Etawah they would not press for their posting at Mainpuri.



6. We do not think it necessary to go into further details of the forgery or otherwise of the transfer order and the notings thereon<sup>for</sup> because we think that in view of the clear and categorical denial in the respondents' Counter Affidavit that the applicants had not been transferred to Mainpuri and their further case that the applicants continued to work on the Muster Roll at Etawah, the interests<sup>of justice</sup> would be served if the applicants are allowed to join at Etawah.

7. This petition is disposed of with the direction to the respondents to allow the applicants to join at Etawah on the original terms; but the applicants shall not get any arrears of salary between 29.4.88 and till the date they again join at Etawah.

*A.M.*  
A.M.

*V.C.*  
V.C.

Dated the 8th January, 1991.

RKM