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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 171 OF 198 6.
T.A. No.
~~XXXXXXXX~~

DATE OF DECISION 9-10-1986

SOLANKI SHANTILAL JUTHABHAI &
SOLANKI PRAVINKUMAR BHIKHALAL. Petitioner s.

I.M. MALIK Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s

J.D. AJMERA Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN.

The Hon'ble Mr. P.M. JOSHI, JUDICIAL 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 ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No.*

J U D G M E N T

(A)

O.A.No. 171 OF 1986.

Date: 9-10-1986

Per: Hon'ble Mr.P.M.Joshi, Judicial Member.

The petitioners, viz; (1) Solanki Shantilal Juthabhai, and (2) Solanki Pravinkumar Bhikhalal seek directions against the respondents to confirm them as Mazdoors and give permanent employment and other benefits under the labour laws. According to the petitioners, they are working as casual Mazdoors since 1978 in the Office of the Sub-Divisional Officer, Telephones, Ahmedabad and they are required to perform the duties some times as Linemen and as such they are skilled and qualified workers in the Telephone Departments, but they are paid Daily Wages @ Rs.9-50 per day instead of Rs.14-50. It is alleged that they are neither made permanent nor given any chance of promotion by discontinuing them at a regular interval, capriciously with a view to avoid grant of various benefits under the provisions of Labour Laws. The respondents have denied the petitioners allegations. It is inter-alia contended that the petitioners have not worked continuously for more than 240 days in a year except in the year 1984-85 by the petitioner No.1 and by the petitioner No.2 in 1982-83 onwards.

Mr. K.K.Shah holding proxy for Mr. I.M. Malik, the learned counsel for the petitioners mainly relied on Annexure 'B' dated 19-7-1983 and the provisions contained under the Industrial employment (Standing Orders) Act. Mr. J.D. Ajmera appeared for the

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respondents. The reliance is sought on the communication contained in the letter dated 26-7-84 addressed to All General Managers, Telegram, filed alongwith the Affidavit-in-Reply of Respondents No. 4.

On perusal of the Annexure 'B' it seems that it is only a communication circulated by A.I.T.E.E., Union Line Staff, and there is nothing which would support petitioners' claim for permanent employment. Even the document of personal records on Muster Roll, relied upon by the petitioners, support the versions of the respondents that the petitioners were absent for more than 180 days, during the relevant period.

The Respondents have furnished the particulars regarding the petitioner No.1 & Petitioner No.2 in the Affidavit of the Respondent No.4 as regards the number of days attended by them at the respective division during the period 1978 to 1985. It is borne out that the petitioner No.1 had not continuously served in Ahmedabad Division and there are breaks of more than 180 days as he had left his service of his own. Whereas the petitioner No.2 worked between 1-10-1978 to 16-5-1979 in Ahmedabad Division and left the service of his own and worked in Surendranagar Division with effect from 9.8.79 to 18.3.1980 and remained absent from 19.3.80 to 19.7.81. However, he has been given category II with effect from 1-4-85 and arrears are drawn and remitted by Money Order No. 206 dated 25.2.1985 @ Rs.14-20 per day. The aforesaid particulars and the details furnished by the respondents are not controverted. Further it is significant to note that the petitioners were allowed to appear in the Linemen examination with

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Roll Nos. "GJ-28 & GJ-42" in 1982 recruitment but failed. They were also promoted in 1984 examination which was a special recruitment for scheduled caste and scheduled tribes with Roll No. "GJ-1 & GJ-5", but could not qualify themselves. The petitioners seem to have suppressed these facts as they very much go against them. The respondents, however, have clearly indicated that as and when the petitioners get themselves qualified and if there are permanent vacant posts, looking to the seniority their cases would be considered. According to the respondents the petitioner No.1 is paid his wages @ Rs.12-70 and Petitioner No.2 @ Rs. 14-20 per day. Having regard to the facts and circumstances stated above it is not understood how the petitioners are entitled to claim the reliefs as prayed for. Mr. K.K.Shah for the petitioners has not been able to show how the provisions of the Industrial Employment (Standing Orders) Act are applicable in the present case.

In the result, this application has no merits and is dismissed. The parties are left to bear their ^{own} costs.

P.H. Trivedi

(P.H. TRIVEDI)
VICE CHAIRMAN

P.M. Joshi

(P.M. JOSHI)
JUDICIAL MEMBER.