

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 328 of 1986 ~~198~~
~~XXX~~.

DATE OF DECISION 30/04/1987

Bhikhabhai Manjibhai

Petitioner

J.J. Yagnik

Advocate for the Petitioner(s)

Versus

Union of India & Others

Respondent

M.R. Bhatt

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 ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

(6)

JUDGMENT

OA/328/86

30/04/1987

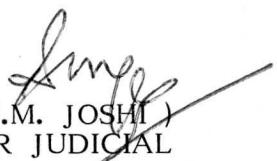
Per : Hon'ble Mr. P.H. Trivedi : Vice Chairman

1. In this case the petitioner who is a Class IV Casual Labourer is posted in Phulera at Jaipur Division on transfer which he is resisting on the grounds that he is not liable to be transferred and that he is not paid transfer allowance or joining time and that persons junior to him whom he has named in para 6 of his petition are still continuing in their respective divisions. He also states that there is enough work in the projects which are either going on or new projects.
2. The respondents have filed a reply and during the hearing the learned advocates from both the parties have submitted that this case is fully covered by our earlier judgment in similar cases and may be disposed of accordingly.
3. The petitioner describes himself as Class IV Casual Labourer. It is not clear whether he has been regularised and, if so, whether he holds a transferable post on being so regularised or whether liability of transfer attaches to his post. The petitioner has not produced any order of transfer and has only apprehended that the transfer is going to be ordered. He has stated that he has not been paid his due salary from July, 1986, and that no transfer allowance had been given to him. As the facts and circumstances on the above points in the petition have not been controverted specifically, we are unable to ascertain the position of the petitioner. Whether a transfer order has been served on him, whether his seniority in the originating division has been fixed, whether he is merely a Casual employee or already regularised, whether he has a liability of transfer and whether he has actually been given railway pass and such other

facilities as are normally given to such categories of employees on transfer are matters on which no light has been thrown. We, therefore, would like that the respondents dispose the case of the petitioner in the light of the conclusions and decisions in similar cases namely OA/198/86 and others which we had occasion to refer to in a recent case OA/453/86. The applicant has no liability of transfer if he is a Casual Labourer even on a temporary basis. If he faces retrenchment on account of being surplus he is entitled to the benefit of the Industrial Disputes Act in terms of notice and pay in lieu thereof. If the applicant has gone to Jaipur Division his seniority in the originating division has to be ascertained and for the purpose of his claim to employment in the originating division in preference to those who are his juniors has to be protected and not allowed to be suffered adversely because he has agreed to go to Jaipur Division.

4. The application is allowed subject to the above observations.


(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
MEMBER JUDICIAL