

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 385 of 1986

~~1986~~

~~P.A. No.~~

DATE OF DECISION 27/04/1987

Smt. Kolanji Vyapuri & Ors. Petitioner

K. K. Shah Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

R. P. 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.

J U D G M E N T

OA/385/86

27/04/1987

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

1. In this case the petitioners Smt.Kolanji Vyapuri and others have impugned the orders of transfer at Annexure 'A' from Rajkot to Jaipur Division and have approached this Tribunal under article 226 of the Constitution on the ground that the impugned orders are arbitrary and mala fide. The petitioners contend that they have been appointed as Casual Labourers since 1973, and have been medically tested in 1984 and are now to be regularised. They also contend that they have a claim to be permanently absorbed against 40% of the post reserved for Project Labourers in terms of the Railway Board's circular dated 12/10/1982. In terms of the Supreme Court's directions in the case of Indrapal Yadav Vs.Union of India the respondents have to prepare a seniority list and to effect such transfer only as are allowed on the principle of "last come first go". They contend that the respondents have not prepared such seniority list and they being senior to those who are retained in the Rajkot Division, the impugned transfer orders are violative of Supreme Court's directions. They also contend that the procedure to be followed under the Industrial Disputes Act for dealing with the labourers declared surplus regarding notice or compensation in lieu thereof have not been followed in their case.

2. The respondent have not filed any reply and their advocate has stated that their reply in similar other cases may be adopted for the purpose of this case.

3. In the absence of the respondents' reply relating to the facts and circumstances in respect of the applicants we are bound to presume that the contentions of the petitioners regarding

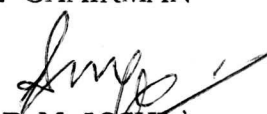
their appointment as casual labourers and their claims for regularisation, the procedure regarding Industrial Disputes Act and absorption against 40% of the permanent posts are not disputed. The sole question for determination is whether casual labourers they are liable to be transferred.

4. This question has been examined in a number of cases in which a common judgment is rendered in OA/1/86 decided on 30/01/1987 in which it has been held that casual labourers cannot be transferred. The impugned transfer orders therefore cannot be held to be in order in this case. They have been stayed earlier.

5. The application has merits and the impugned orders of transfers are quashed and set aside. The respondent will finalise the regularisation of the applicants on merits.

No order as to costs.


(P H TRIVEDI)
VICE CHAIRMAN


(P M JOSHI)
JUDICIAL MEMBER