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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. /415/86
~~K.A. No.~~

1986

DATE OF DECISION 17-12-1987

SHRI JAYAKUNDI GOVINDSWAMY Petitioner

SHRI K.K.SHAH Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS Respondent

SHRI R.P.BHATT Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. D.S.MISHRA

: ADMINISTRATIVE MEMBER

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 ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

0.A./415/86

Smt. Jayakundi Govindswamy
Female Beldar
c/o. Permanent Way
Inspector (Construction)
western Railway
PORBANDAR.

.. Petitioner

Versus

1. Union of India,
Notice to be served through
The General Manager
W.Rly. Churchgate,
Bombay
2. The Chief Engineer,
(construction)
Western Railway
Ahmedabad
3. The Executive Engineer
(Construction)
Western Railway
Rajkot.

.. Respondents

CORAM : Hon'ble Mr. D.S. Mishra .. Administrative Member
Hon'ble Mr. P.M. Joshi .. Judicial Member

O R A L O R D E R

17.12.1987

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

In this application filed by the petitioner Mrs. Jayakundi Govindswamy, on 19th November, 1986 under section 19 of the Administrative Tribunals Act, 1985, has challenged the action of the respondent - Railway Administration, whereby she has not been allowed to resume her duties. According to her she was engaged as Female Beldar (Project Casual Labour) since 9.10.1980 and after completing her services for more than 360 days, she has acquired temporary status which entitled her to a regular pay scale and other allowances and benefits under the Rules. It is further stated that she was not keeping good health and was advised to take rest after she had undergone 'Tubectomy operation' at the Maharani Shri Rupaliba Hospital at Porbandar on 18.4.1984. In the meantime she

came to know that she was shifted to Kota Division on or about 18.4.1985 but she could not resume her duties at Kota Division as she was advised to take rest. It is alleged that when she was declared medically fit to resume her duties on 22.4.1986 and actually reported on 22.4.1986 she was not taken back on duty. She has therefore prayed that she should be reinstated with backwages. She was also prayed that the respondents are directed to maintain her seniority in the Rajkot Division and treat her as temporary employee in accordance with the Rules.

2. The respondents-Railway Administration have resisted the petitioner's application vide their affidavit in reply wherein they have denied the petitioner's averments and allegations made against them. According to them, the petitioner, instead of proceeding to Kota Division she had approached the Hon'ble High Court of Gujarat along with others by filing Special Civil Application No. 2164/85 wherein the High Court upheld the action of the respondent in shifting the labourers to a place where they could provide them employment. It was further submitted by them that the petitioner was relieved by the order dated 8.4.1985 after she was fit to resume duty and hence there was no question of her reporting for duty on 22.4.1986, and consequently, the petitioner is not entitled to the reliefs as prayed for.

3. When the matter came up for regular hearing it was submitted by Mr. K.K.Shah the learned counsel for the petitioner that the case of the petitioner is squarely covered by the decision rendered by this Tribunal on 16.2.1987 by a common judgment in OA/331/86, Sukumar Gopalan and Others. However, according to him the petitioner is extremely poor and he would forego his claim for the back wages if the respondents reinstate him within 10 to 15 days. Mr. M.R.Bhatt for Mr. R.P.Bhatt, learned counsel appearing on behalf of the respondents-Railway Administration, equally made a handsome gesture

by stating that the respondents will be able to reinstate the petitioner within 10 days at the place where the project work is going on, but in that case, the petitioner would not be entitled to claim any back wages. Mr. K.K.Shah responded by stating that the petitioner is willing to work and accept the job at the place offered by the respondents. Both the learned counsels for the parties have requested the Tribunal to pass orders and direction in terms of their concession.

4. For the reasons stated above, we partly allow the application and quash the impugned action and direct the respondents-Railway Administration to reinstate the petitioner within 10 days from the date of this order by offering the same job of a Casual Labourer at the place convenient to them. However, the petitioner, being reinstated, will have no claim for back wages.

With the aforesaid directions the application stands disposed of with no order as to costs.


(P.M. JOSHI)
JUDICIAL MEMBER


(D.S. MISRA)
ADMINISTRATIVE MEMBER.