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(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 45 OF 1986.
T.A. No.

DATE OF DECISION 8-10-1986

Y.V. SHAH

AMRITAM MUTHIAN.

Petitioner(s)

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 ? *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*

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(8)

JUDGMENT

OA No. 45 OF 1986.

Date: 8-10-1986.

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

The petitioners, viz; (1) Mr. Jyoti Anand, and (2) Smt. Amritam Muthian, working as Store Khallasi, and Store Chowkidar respectively, at Porbander, were directed to report for duty at Jakhwada vide orders dated 3-10-1985 (Annexure 'C' & 'D'). The Respondent No. 3(P.W.I) instructed them to work as Khallasi as there was no post of Store Khallasi or Store Chowkidar vide memo dated 2-11-1985, found at Annexure 'F'. Both of them have challenged the Annexure 'F' dated 2-11-1985 by filing this application under section 19 of the Administrative Tribunals Act 1985, contending that the Respondent No.3, has no power/ authority under the law to pass such an order making illegal change in services. It is, therefore prayed that the impugned order be quashed and the respondents should be directed to restore the petitioners on their original post. While claiming the above reliefs, they have referred to the proceedings resorted by them for the redress of their grievances which occurred in the year 1980.

The Respondents have opposed the application contending that the petitioner No.1, Jyoti Anand was appointed on 1-1-1980 as Male Beldar on daily wages of pay on Viramgam-Okha-Porbandar Gauge Conversion Project under Executive Engineer, Western Railway, Surendranagar.

Whereas, Smt. Amritam Muthian, Petitioner No. 2 was appointed as Female Beldar on daily rates of pay on 25-12-1979 on the same project. According to them casual labourers are employed under the category of Male Beldars and Female Beldars for the execution of Railways works under five year plan by the temporary department - Survey and Construction of the Western Railway. It is further stated that these casual labourers are employed on different field of activities like working in the Stores Depot or working on the line for linking the track structure and other allied purposes and such casual labourers who work in the Stores Depot are called as Store Khallasis and those who are deputed to watch the stores scattered all over, are called the Store Chowkidars. It is therefore, their defence that such casual labourers recruited in general category with common seniority are all unskilled casual labourers and they can be put to work on any work that is available and entrusted to them as per the convenience of their administration.

The short question to be decided in this case is whether the impugned memo dated 2-11-85 amounted to a reduction in rank as contended. It is urged by Mr. Y.V. Shah, the learned counsel for the petitioners that the respondents can not direct the petitioners to work as Khallasis when they were working as Store Khallasis, and Store Chowkidars earlier, as it amounts to illegal change and results in retrenching the petitioners from the post of Store Khallasis and Store Chowkidar. In this regard, the reliance is sought on the case of V.Ramashanker Vs. The Secretary, Ministry

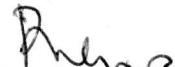
of Railway and Ors. decided by Madras Bench of the Central Administrative Tribunal (1986(2) All India S.L.G. P.61).

We are surprised, how the rationale adopted in the said case is applicable in the instant case. The applicant in the cited case was initially employed as casual labourer, but thereafter he had responded to the employment Notice No.2 of 1980 dated 25-9-1980 calling for applications from Casual Labour hands in Semi-skilled category like Carpenters, Masons, Wireman etc.,. As the applicant was qualified, he was selected to the post of Wireman Grade-II and appointed as such on daily wages of Rs.15.79 per day. Later on, he was directed to do some trench digging on 10.3.1986. He asked the Supervisor to give him the nature of the work in writing. Instead of entrusting any job to him he was accused of subordination and his explanation of 11.4.1983 to the effect that he should be given a job for which he was recruited did not yield any result excepting that he was reverted as unskilled khallasi from 15.4.1983 on minimum wages. By another order dated 7.5.1983 his pay was reduced from Rs. 15.79 to Rs.12.50 per day. These and other facts situation were the subject matter for decision before the Madras Bench, wherein the Tribunal quashed the impugned order holding that the order stands vitiated for violation of principles of natural justice, as a punishment was one of the reduction in the daily rate of Rs. 15.79 to Rs.8.57 per day.

In the present case, it is not the case of the petitioners that there is any reduction in their wages while doing the work assigned to them. They are purely

casual labourers required to undertake unskilled job. Admittedly there is no difference in the pay structure when casual labourers are posted even in the Store Depot or for other work in the Railway for the category of Khallasi. Since the petitioners belong to a common category of unskilled casual labourers, they have to work in the capacity offered by the Western/Administration without any drop in their emoluments. Hence the petitioners cannot lay claim and insist for their continuance in particular capacity only when their service belongs to a common category of unskilled casual labourer only. According to the respondents, similarly situated casual labourers have resumed at Jakhwada, but both the petitioners are absconding from duty unauthorisedly. As averred, the Railway Administration is still willing and ready to continue the petitioners in the unskilled category of casual labourers, should they report back on duty Jakhwada.

In the circumstances stated above it can not be said that the impugned order dated 2.11.1985(Annexure 'F') is suffers from any illegality or/defective in any manner. Therefore, the petitioners' request to quash the impugned order can not be conceded. In view of all what has been stated and discussed above, the application is devoid of merit and the same is hereby dismissed. In the facts and circumstances of the case, the parties are left bear their on costs.


(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
JUDICIAL MEMBER

(11)

M.A./146/86

CORAM : HON'BLE MR. P.H. TRIVEDI ... VICE CHAIRMAN
HON'BLE MR. P.M. JOSHI ... JUDICIAL MEMBER

28/10/86

This is an application seeking review of the judgment delivered in OA/45/86. It is contended by Mr. Y.V. Shah the learned counsel for the applicant that the judgments cited by him and the re-joinder filed by him are not considered. According to him, the impugned order resulting the change in the conditions of the services as violative of the principles of law and as these aspects were not considered it entitles him to seek review of the judgment.

As a matter of fact all the facts and circumstances were taken into consideration while rendering the judgment. There is no new and important matter or evidence which would entitle us to exercise our powers to review. Unless the petitioner shows that there is any new point with regard to the questions of fact is involved on face of record in the matter, it would not call for exercise of powers of review. No such case is made out. Therefore the application is rejected.

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(P.H. Trivedi)

V.C.

Swami
(P.M. JOSHI)

J.M.

28/10pm;