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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. **122** of 1987
~~XXXXXX~~

DATE OF DECISION **22-04-1988**

Shri Ghanshyamsingh H. & Ors. Petitioner

Shri P. H. Pathak Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri B. R. Kyada Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr.

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/122/87

22-04-1988

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

that
In this case the petitioners claim that they are Casual Labourers who have been ordered to go from Jamnagar to Jaipur when their services were not sponsored on the ground that there is no work for them at Jamnagar. However, the respondent authorities are calling for labour from Ahmedabad and not asking for labour which was at Rajkot Division. This action is not consistent with the plea that there is no work in the Rajkot Division. The respondents have not followed the principle of 'Last come First go' as ordered by the Supreme Court nor have they followed the procedure prescribed under the Industrial Disputes Act. The petitioners, therefore, have asked for directions declaring the order dated 28-8-1986 transferring the applicants from Jamnagar to Jaipur as illegal.

2. Against this, the respondents have urged that the work in the project having been completed, there is now no more work for the petitioners and their services have been retrenched from 10-9-1985 after following the mandatory provisions of the I.D. Act. No junior of the petitioners is continued in the service and the retrenchment has been carried out strictly in terms of Supreme Court's judgment following "Last come first go" principle. The petitioners have not completed service which entitles them to the protection from retrenchment which has been done according to the seniority list.

3. Both learned advocates have waived hearing and relied upon their petition and reply respectively.

4. The petitioners have not produced the Casual Labour Cards. Annexure 'A' clearly states the date of appointment is in the month of July 1983 for seven petitioners. The transfer order dated 12-7-1986 is produced at Annexure 'B'. The communication dated 28-8-1986 is produced to show the service particulars for last six months of the petitioners along with some others sent to the Jaipur Office. Annexure 'C/2' dated 18-9-1986 shows that two petitioners have been relieved and

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have been paid their wages. These documents do not establish continuous period of service or the entitlement resulting therefrom in terms of the provisions of the I.D. Act. On the other hand the respondents have treated the petitioners on the basis of retrenchment. The documents relied upon by the petitioners showing that the Respondent has sought to transfer the peitioners. The respondents have also taken the stand that they have ful-filled the requirements of the I.D. Act and have retrenched the petitioners from 10-9-1985, while the petitioners have sought relief only against the orders dated 28-8-1986 and not against those of 18-9-1986. This means that they have not asked for relief in terms of the orders relieving the petitioners but only in terms of their transfer asking them to go to another station. The respondents have stated that as the petitioners were not ready to go to other projects, there was no alternative except relieving them which he has done but he has not shown any proof of the retrenchment procedure having been followed.

5. On the basis of the rather unsatisfactory state of proof of the respective cases we can only reiterate our decision in OA/1/86 case that, casual labourers are not liable to transfer and are entitled to their seniority in terms of the seniority list in their originating division on the basis of which alone they can be relieved by following "Last come first go" principle. Their entitlement under the I. D. Act would require proof of service for the period which renders them eligible to it. It would, be, therefore, in the fitness of things if we hold as follows :-

- (1) The petitioners are not liable to transfer.
- (2) They can be relieved only in the order of their seniority in their originating division on the basis of "Last come first go" principle.
- (3) The respondent authorities are liable to pay retrenchment compensation if the petitioners are entitled to it under the Industrial Disputes Act.

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Coram : Hon'ble Mr P H Trivedi .. Vice Chairman
Hon'ble Mr P M Joshi .. Judicial Member

24/3/1987

Admit. Issue notice on the respondents returnable
within 45 days of this order.


(P H Trivedi)
Vice Chairman


(P M Joshi)
Judicial Member