

Shri Parbat Deva  
C/o.D.M.Atit  
Near Railway Station,  
Porbandar.

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: Applicant

Versus

1. Union of India  
Through:  
The Chief Engineer(Const.)  
Railway Station, Ahmedabad.

2. Executive Engineer(C)  
Petlad

3. Permanent Way Inspector(R)  
Western Railway,  
Anand.

: Respondents

Coram : Hon'ble Mr. N.Dharmadan

: Judicial Member

Hon'ble Mr. M.M.Singh

: Administrative Member

O R A L   O R D E R

Date: 18/4/1990

Per: Hon'ble Mr. N.Dharmadan

: Judicial Member

This is a case of ~~the~~ casual labour who was engaged by the respondents in 1983 but his service was stated to have been terminated with effect from 1986. Accordingly, the applicant approached this Tribunal with a prayer that the termination of the applicant from 11th September, 1986 is ~~to be held~~ illegal and he prays for reinstatement in service with consequential benefits.

The case of the applicant is that originally he was engaged under the Permanent Way Inspector at Lalpurjam, to <sup>to be transferred</sup> Anand and <sup>he is</sup> worked under PWI (II), Anand. Thereafter when his wife was transferred, the applicant requested to keep him also <sup>in which place by order of transfer, is</sup> with his wife but the officers have taken no note of it. <sup>and they</sup> transferred him to <sup>a different place where he</sup> ~~Anand~~ and his wife was transferred to Fulera district, Jaipur. The applicant contended that thereafter his service was terminated. The respondents have filed a counter affidavit stating that there is no termination of service of the applicant from 11.9.1986. On the other hand he stopped coming to place of work and

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he left the work of his own accord. According to the respondent when his request for the transfer to work ~~in the same place to~~ <sup>in the</sup> ~~and after~~ <sup>2 the</sup> along with the wife <sup>was</sup> was refused by the officers <sup>is</sup> and after ~~failed to come to~~ coming for attending the work. Later he appeared before the respondent and requested for the surrender of the service card. <sup>is</sup> and On these facts the specific case stated by the respondents in the counter affidavit <sup>is</sup> that there is a voluntary surrender of job by the applicant. This counter affidavit was filed on 30.11.1987, but the applicant has not chosen to deny these facts in the counter. Under these circumstances we can only accept the case of the respondent that there is a voluntary surrender of the job <sup>by</sup> the applicant on account of refusal by the respondent to give him a transfer so as to enable him to work in a place where <sup>is</sup> his wife <sup>of the applicant</sup> was working. The applicant's counsel relying on the decision reported in 1982 SCC(L & S) 492 (Shri Robert D'souza vs. Executive Engineer, Southern Railway and Another) <sup>in which it is</sup> contended that even if there is a surrender, the respondents ought to have <sup>been</sup> conducted an inquiry before coming to the conclusion as to whether there is an actual <sup>taken action</sup> surrender or not and <sup>and punished</sup> thereon. We are not inclined to accept this contention <sup>because</sup> that the facts of the case relied by the applicant are distinguishable and not applicable to this case.

Under these circumstances, we are left <sup>in</sup> the option of dismissing the application because we find that there is no merit in the application. But before leaving the application we may make an observation that this is a case of the <sup>any</sup> <sup>and</sup> illiterate poor employee who worked under the Railway from 1983 to 1986 and has been granted temporary status. Though we are dismissing the application <sup>after</sup> <sup>and to accepting</sup> <sup>the</sup> content ion of the railway we feel the interest of justice requires that the railway should consider his case of reemployment

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in future whenever a vacancy arises in the category  
in which the applicant was engaged. Accordingly, we  
direct that the applicant to make an application before  
the respondent stating <sup>all is</sup> of the claims for reemployment  
within a period of month from today. If such an applica-  
tion is filed, the respondents may consider the same and  
grant relief permissible under law. With this observation,  
we dismiss the application. There shall be no order as  
to costs.

M. M. Singh

(M.M.Singh)  
Administrative Member

N. Dharmadan

(N.Dharmadan)  
Judicial Member

a.a.b.