

O.A./486/87

with

M.A./544/87

in

O.A./485/87

(8)

1. Kasambo Kandaswami
C/o. CPWI (M) Office, Rajkot.
2. Chinnappilli Ranjan,
CPWI (M) Office, W.Railway,
Rajkot.
3. Manickam Nallam & Ors.
C/o. P.W.I. (I), Rajkot.
Western Railway, Rajkot.

.....Applicants

Versus

1. Union of India,
Notice to be serve through
General Manager,
Western Railway, Churchgate,
Bombay.
2. A.E.N., Rajkot,
Western Railway,
Rajkot.
3. Permanent Way Inspector (I),
Rajkot, Western Railway,
Rajkot.

....Respondents

O R A L O R D E R

21/10/1988

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

Heard learned advocates Mr. Nigam Shukla for Mr. Akil Kureshi and Mr. B.R. Kyada for the applicants and the respondents. It has been decided in our common judgment dated 30.1.1987 that casual labourers are not transferable and that rules of the Indian Railway Establishment Manual clearly states that they are ^{not} transferred. In this case learned advocate for the respondent Mr. Kyada states that since then the petitioners have been taken back at Rajkot and there is therefore, no cause for them to pursue. Learned advocate for the petitioner states that from the date of the order of transfer complications ^{have} are arisen because when they are approached the authorities for fresh railway pass on account of willingness to go to Morbi. They are refused such a pass and when others who had already gone to Morbi were brought back to Rajkot, they

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are not allowed to work at Rajkot. The petitioners therefore contends that they are entitled to wages.

In this case the question turns upon whether the petitioners duly offered themselves for going to Morbi and whether they were available for work at Rajkot inspite of which the respondent authorities by not giving them work, did not employ them. The position under the law has been established as stated above that the petitioners are ~~not~~ transferrable from Rajkot to Morbi and had they refused altogether to shift themselves to Rajkot except by following procedure for retrenchment their services could not have been ^{discontinued} ~~disputed~~. The only question ^{which} therefore needs to be decided is ~~that the facts~~ whether the petitioners absent ^{will} themselves in fully or whether the respondents ^{will} fully refused them ~~to~~ work. In ~~this~~ ^{these} circumstances, the petitioners are allowed to make a representation within two weeks from the date of this order to the Executive Engineer, Rajkot with such proof in support of the contentions which they may have, and the said Executive Engineer is directed to pass a speaking order within two months thereof. With this direction, the case is disposed of.

P. H. Trivedi
(P.H.Trivedi)
Vice Chairman

a.a.bhatt