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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

O.A. No.                      488    OF                      1987  
~~T.A. No.~~  
~~XXXXXXXX~~

DATE OF DECISION 22.11.1988

Shri Chhanabhai Jairambhai & Ors.                      Petitioner

Mr. Y.V. Shah                      Advocate for the Petitioner(s)

**Versus**

Union of India & Ors.                      Respondent

Mr. R.M. Vin                      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 ? No
4. Whether it needs to be circulated to other Benches of the Tribunal. No

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1. Chhanabhai Jairambhai,
2. Dharshibhai Sonabhai,
3. Navghanabhai Sagrambhai,
4. Laljibhai Sagrambhai,
5. Shakrabhai Virsangbhai,
6. Shakrabhai Kanabhai,
7. Punjabhai Jairambhai,
8. Magjibhai Gordhanbhai,
9. Bhembhai Laljibhai,
10. Ajabhai Fulabhai,
11. Vanabhai Gafoorbhai,
12. Sagarbhai Virsangbhai,
13. Hemabhai Sondabhai,
14. Ranchhodbhai Bhikhabhai,
15. Gidhabhai Somabhai,
16. Kamshibhai Shankarbhai,
17. Jiwabhai Nagarbhai,
18. Jayantibhai Jivabhai,
19. Chhanabhai Veerabhai,
20. Vanabhai Ambarambhai,
21. Dharamsinhbhai Shankarbhai,
22. Prabhubhai Mangabhai,
23. Veerabhai Gordhanbhai,
24. Dharshibhai Laljibhai,
25. Vajabhai Laxmanbhai,
26. Dhulabhai Gandabhai,
27. Nagarbhai Jairambhai,
28. Shakrabhai Ichhabhai,
29. Mansangbhai Ambaram,
30. Ramanbhai Gangaram,
31. Natvarbhai Motibhai,
32. Ajmalbhai Kodabhai,
33. Kantibhai Vishabhai,
34. Sagarbhai Kachrabhai,
35. Jayantibhai Ambarambhai,
36. Popatbhai Naranbhai,
37. Bhudha Bhaichandbhai,
38. Dayarambhai Ashabhai,
39. M.A. Shekh,
40. Nirmal Kumar Hariram.

C/o. C.P.W.I., Western Railway,  
Dholka,  
Residing at MATODA,  
Ta. Sanand,  
Dist. Ahmedabad.

.....Petitioners.

( Advocate Mr. Y.V. Shah )

Versus .

1. Union of India,  
through the General Manager,  
Western Railway,  
Churchgate,  
Bombay - 20.

.....3/-

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2. Divisional Railway Manager, (E),  
Western Railway,  
Bhavnagar.
3. Mr. Bukhari or his successor in the  
Office,  
C. Permanent Way Inspector,  
Western Railway,  
Dholka.

.... Respondents.

( Advocate Mr. R. M. Vin )

J U D G M E N T

O.A. No. 488 OF 1987.

Date: 22.11.1988.

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

a) The petitioners (40 in all), have filed this application under section 19 of the Administrative Tribunals Act, 1985, (herein after referred to as "The Act") on 6.10.1987. It is averred by the petitioners that they were initially engaged as casual labourers during the period between 21.9.1974 to 22.5.1980 and they had acquired "temporary status". According to them they have been retrenched from service by verbal orders passed on 26.9.1986 by respondent no.3 Mr. Bhukhari on the ground of surplus. The petitioners have therefore, prayed that the impugned action of retrenchment be quashed and set aside, as it is violative of article 14 and 16, of the Constitution of India and also offending the provisions contained under section 25 F, 25 G, 25 H, and 25 N of the Industrial Disputes Act 1947 and Rules 76 A and C and 77 of the Industrial Disputes (Central) Rules 1957. They have further prayed that the respondents

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railway administration be directed to absorb them in service with all consequential benefits.

2. The respondents railway administration have contested the petitioners' application and denied the allegations and assertions made by them. According to them, the petitioners: S/Shri Jayanti Jivan (no.18), Dhula Ganda (no.26) and Raman Gangaram (no.30) have never worked under Permanent Way Inspector, (PWI), Dholka. They have categorically denied, the petitioners' allegation that they were retrenched by verbal orders. It is further submitted that the rest of the petitioners, who were engaged as casual labourer left their employment on their own accord on the dates shown in Annexure R-I and most of them, much prior to 1.11.1982 i.e., three years prior to the establishment of the Tribunal and hence the application is liable to be dismissed on merits as well as on the ground of limitation. It was further contended that the petitioners were not casual labourers on Project and hence they are not entitled to the benefits of the scheme framed by the Railway Board.

3. When the matter came up for hearing, we have heard Mr. Y.V. Shah and Mr. R.M.Vin the learned counsel for the applicants and the respondents respectively, alongwith other cases of casual labourers, wherein common questions of law were raised. But, we have not preferred to render a common judgment as each case represented different set of facts and circumstances. Both the sides were called upon to supply the information and materials in terms of our directions issued on 16.6.1988, and in terms thereof the respondents railway administration have produced relevant documents in support of their version, which are taken on record.



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4. At the very outset, it may be stated here that the petitioners, except no. 1, 2, 3, 4, 5, 7, 8, 12, 22, 26, and 39, while filing the application and during the pendency of the proceedings, they have not produced their Service Cards. It is significant to note that the petitioners have not thought it proper to state the specific dates, month or the year, on which they were engaged. It is vaguely stated that they were engaged during the year 1974 to 1980. It is their version that they have acquired 'temporary status'. Now, this material averments could have been easily proved by producing their service card. A service card on prescribed form is given to each casual labourer as a documentary proof of his service in terms of instructions contained in para 2513 in Establishment Manual. Mr. B.S. Mainee in his book "Railway Establishment Rules and Labour Laws," (17th Edition 1988), while quoting Railway Board's letter dated 30.11.1971 at page 423, has explained the utility and the importance of the service card and the entries of service made therein, as each sub-ordinate officers are required to make them without fail before discharging a casual labourer. When casual labourer is on authorised absence that does not constitute a break for counting towards the four month's period for conferring temporary status. It is undisputed that such "authorised absence" has to be shown as service. No separate entry for such break is necessary. In the case of loss of card, it should be reported to the nearest police station and a copy of F.I.R. lodged with the police should be furnished to the railway authorities. The following notes are printed on the service card itself.

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NOTES

1. The person to whom card is issued is responsible for its safe custody.
2. No duplicate card be issued under any circumstances.
3. In case of loss, the fact should be immediately reported.
4. This card should invariably be produced at the time of every fresh appointment.
5. No claim for permanent absorption will be entertained without this card.
6. Another form of evidence in support of his employment will not be taken cognisance of.
7. Any misuse of this card shall render its owner liable for being disqualified from railway service of all kinds.

5. The stand of the respondents-railway administration is that the petitioners have materially suppressed their service particulars and have come out with a false plea that they have been retrenched verbally on 26.9.86, especially, when as a matter of fact they have never reported for work since the dates shown in Annexure R-I. Relying on the case of Buckingham & Carnatic Co., V/s. Venkatiah & Anrs. (A.I.R. 1964 S.C. 1272) it was contended by Mr. R.M. Vin, the learned counsel for the respondents that the petitioners, having abandoned or relinquished the service much prior to 1982, they are not entitled to any relief and their cause is also otherwise barred by limitation. Mr. Y.V. Shah, the learned counsel for the petitioner, during the course of his submissions had preferred to refer to several cases reported in A.I.R. 1986 S.C. 132, A.I.R. 1978 S.C. 8, A.I.R. 1982 S.C. 854, AIR 1979 S.C. 582, & A.I.R. 1988 S.C. 390. Suffice it to say, that the broad principles laid down therein are not disputed. Having regard to the facts of the present case, they are all distinguishable and not applicable in the present case.

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6. The petitioners' plea that they were engaged during 1974 to 1980, is not only incorrect, but it is quite misleading. On the basis of the service cards produced by some of the petitioners and the relevant materials on record produced by the respondents before us, it is duly established that the petitioners worked as casual labourer during the following periods only :

Sr. No.	Name S/Shri	Working particulars From To	
1.	Chhana Jeram (see R-1.P.3 Sr.No.24)	29.9.73 29.9.74 29.9.75 29.9.76 29.9.77 29.9.78	28.9.74 28.9.74 28.9.76 28.9.77 28.9.78 28.9.79 (as per service card) (left on 20.11.78)
2.	Dharshi Soma (see R-1.P.3 Sr.No.24) (see R-3.P.7 Sr.No.62) (see R-48P.1.Sr.No.9) (see R-9 P.4.Sr.No.35) (see R-18 P.1 Sr.No.7) (	29.9.73 29.9.74 29.9.75 29.9.76 29.9.77 29.9.78	28.9.74 28.9.75 28.9.76 28.9.77 28.9.78 28.9.79 Left on 20.9.79. (as per service card)
3.	Navghan Sagram (see R-1 P.3 S.No.19) (see R-5 P.4 S.No.29) (see R-6 P.9 S.No.78) (see R-9 P.13 S.No.120) (See R-9A P.4 S.No.32) (see R-14 P.18 S.No.156) (see R-18 P.1 S.No.6) (see R-22 P.15 S.No.128)	7.9.74 7.9.75 7.9.76 7.9.77 7.9.78	6.9.75 6.9.76 6.9.77 6.9.78 6.9.79 Left on 20.2.1980 (as per service card)
4.	Lalji Sagram (see R-5 P.7 S.No.59)	4.7.76 4.7.77 4.7.78	3.7.77 3.7.78 3.7.79 Left on 10.10.1980 (as per service card)
5.	Sakra Virsing (see R-1 P.3 Sr.No.20) (see R-1 P.3 Sr.No.24) (see R-3 P.8 Sr.No.65) (see R-9 P.17 Sr.No.158) (see R-9A P.8 S.No.69) (see R-13 P.15 S.No.151) (see R-14 P.22 S.No.195)	29.9.73 29.9.74 29.9.75 29.9.76 29.9.77 29.9.78	28.9.74 29.9.75 28.9.76 28.9.77 28.8.78 28.9.79 Left on 20.2.1980. (as per service card)

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6. Sakra Kana 5.7.76 4.7.77  
 (see R-1 P.5 S.No.38) 5.7.77 4.7.78  
 (see R-15 P.1 S.No.8) 5.7.78 4.7.79 (Left)  
 (see R-14 P.19 S.No.166)  
 (see R-5 P.6 S.No.47)  
 (see R-9 A.P.No.8) S.No.70
7. Punja Jeram 19.10.1977 18.10.78  
 (see R-1 P.3 S.No.27) 19.10.78 18.10.79  
 (see R-3 P.7 S.No.63)  
 (see R-9 P.12 S.No.113)  
 (see R-5 P.3 S.No.24) Left on 20.2.1980.  
 (as per service card)
8. Manji Gordhan 4.2.78 3.2.79  
 (see R-6 P.10 S.No.88) 4.2.79 3.2.80  
 (see R-9 P.14 S.No.132)  
 (see R-9 A P.5 S.No.43) Left on 10.6.1980  
 (as per service card)
9. Bhima Lalji 1.2.78 31.1.1979  
 (see R-9 P.11 S.No.106) 1.2.79 31.1.1980  
 (see R-9 A P.2 S.No.18)  
 (see R-14 P.19 S.No.165) (Left)
10. Aja Fula 19.12.78 18.12.79 (Left)  
 (see R-6 P.9 S.No.80)
11. Vana Gafur 29.9.73 28.9.74  
 (see R-5 P.7 S.No.56) 29.9.74 28.9.75  
 (see R-9 P.11 S.No.108) 29.9.75 28.9.76  
 (see R-9AP.3 S.No.20) 29.9.76 28.9.77  
 (see R-14P.22 S.No.197) 29.9.77 28.9.78  
 29.9.78 28.9.79 (Left)
12. Sagra Virsing 7.4.77 6.4.78  
 (see R-1P.6 S.No.54) 7.4.78 6.4.79  
 (see R-3 P.7 S.No.55) 7.4.79 6.4.80  
 (see R-9 P.14 S.No.128) 7.4.80 6.4.81  
 (see R-9A P.5 S.No.39)  
 (see R-14 P.21 S.No.186) (Left)
13. Hema Sonda 3.2.78 2.2.79  
 (see R.14 P.19 S.No.168) 3.2.79 2.2.80  
 (see R-9A P.5 S.No.38)  
 (see R-9 P.14 S.No.127)  
 (see R-5 P.4 S.No.33)  
 (see R-6 P.10 S.No.83)  
 (see R-8 P.6 S.No.60) (Left)
14. Ranchhod Bhikha 26.12.78 26.12.79  
 (see R-5 P.4 S.No.34) 26.12.79 25.12.80  
 (see R-6 P.10 S.No.86)  
 (see R-9 P.14 S.No.130)  
 (see R-10 P.11 S.No.91) (Left)
15. Gidha Soma 24.1.78 23.1.79  
 (see R-22 P.15 S.No.133) 24.1.79 23.1.80  
 (see R-14 P.18 S.No.160)  
 (see R-9A P.6 S.No.54)  
 (see R-6 P.11 S.No.98)  
 (see R-9 P.15 S.No.143) (Left)
16. Kamshi Shankar 29.9.73 28.9.74  
 (see R-12 P.14 S.No.228) (Left)



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|-----|---|---|--|--------|
| 17. | Jiwa Nagar<br>(see R-9A P.5 S.No.42)<br>(see R-9 P.14 S.No.131)<br>(see R-8 P.6 S.No.62)<br>(see R-5 P.4 S.No.35)                             | 17.10.77<br>17.10.78  | 16.10.78<br>16.10.79   | (Left) |
| 18. | Jayanti Jivan   | No such name in specimen Thumb impression register or in Time Book or salary bills.   |  |        |
| 19. | Chhana Vira<br>(see R-22 P.16 S.No.138)   | 1.2.78  | 31.1.79  | (Left) |
| 20. | Vana Ambaram<br>(see R-6 P.7 S.No.63)<br>(see R-14 P.19 S.No.170)   | 29.9.73<br>29.9.74<br>29.9.75<br>29.9.76<br>29.9.77<br>29.9.78  | 28.9.74<br>28.9.75<br>28.9.76<br>28.9.77<br>28.9.78<br>28.9.79 | (Left) |
| 21. | Dharamshi Shaker<br>(See R-9A P.6 S.No.53)<br>(see R-6 P.11 S.No.97)<br>(see R-9 P.15 S.No.142)   | 5.2.79  | 4.2.80   | (Left) |
| 22. | Prabhu Manga<br>(see R-2 P.7 S.No.55)<br>(see R-5 P.4 S.No.36)<br>(see R-9 P.14 S.No.135)<br>(see R-9A P.6 S.No.46)<br>(see R-15 P.2 S.No.10) | 4.7.76<br>4.7.77<br>4.7.78<br>4.7.79  | 3.7.77<br>3.7.78<br>3.7.79<br>3.7.80                           | (Left) |
| 23. | Vira Gordhan<br>(see R-6 P.10 S.No.89)<br>(see R-9 P.14 S.No.133)<br>(see R-9A P.5 S.No.44)   | 4.2.78<br>4.2.79  | 3.2.79<br>3.2.80   | (Left) |
| 24. | Dharamshi Lalji<br>(see R-16 P.1 S.No.9)<br>(see R-26 P.7 S.No.36)  | 4.10.76<br>4.10.77<br>4.10.78<br>4.10.79<br>4.10.80   | 3.10.77<br>3.10.78<br>3.10.79<br>3.10.80<br>3.10.81            | (Left) |
| 25. | Vaja Laxman<br>(see R-1 P.6 S.No.46)<br>(see R-27 P.7 S.No.981)   | 22.9.73<br>22.9.74<br>22.9.75<br>22.9.76<br>22.9.77<br>22.9.78  | 21.9.74<br>21.9.75<br>21.9.76<br>21.9.77<br>21.9.78<br>21.9.79 | (Left) |
| 26. | Dhula Ganda   | No such name in specimen Thumb impression Register or in Time Books or in Salary Bills.<br>(at Dholka But 15-5-80 to 14-8-80 & 21-8-80 to 10-10-80.)<br>(as per service card) |  |        |
| 27. | Magear Jeram  | 4.2.78  | --   | (Left) |
| 28. | Shanker Ichha<br>(see R-18 P.3 S.No.13)   | 7.9.74  | 6.9.75   | (Left) |
| 29. | Mansing Ambaram<br>(see R-9 P.14 S.No.134)<br>(see R-6 P.10 S.No.90)<br>(see R-9A P.5 S.No.45)  | 10.5.78   | 6.5.79   | (Left) |

30.	Raman Gangaram	No such name in specimen Thumb impression Register or in Time Books or in Salary Bills.	
31.	Natwar Moti	7.6.78	5.6.79
	(see R-1 P.6 S.No.49)		(Left)
	(see R-2 P.10 S.No.84)		
32.	Ajmal Khoda	23.10.73	22.10.74
	(see R-2 P.7 S.No.61)	23.10.74	22.10.75
	(see R-9 P.15 S.No.139)	23.10.75	22.10.76
	(see R-9A P.6 S.No.50)	23.10.76	22.10.77
		23.10.77	22.10.78
		23.10.78	22.10.79 (Left)
33.	Kanti Visa	11.5.78	10.5.79
	(see R-2 P.10 S.No.83)		(Left)
	(see R-1 P.6 S.No.48)		
34.	Sagar Kachra	4.2.78	3.2.79
	(see R-62 P.18 S.No.160)		(Left)
35.	Jayanti Ambaram	27.9.78	26.9.79
	(see R-1 P.5 S.No.44)		(Left)
	(see R-2 P.7 S.No.57)		
36.	Popat Naran	7.2.78	6.2.79
	(see R-2 P.8 S.No.69)		(Left)
	(see R-1 P.6 S.No.47)		
37.	Budha Bhaichand	20.10.78	20.11.78
	(see R-2 P.8 S.No.70)		(Left)
38.	Dayaram Asha	18.5.80	17.5.81
	(see R-10 P.12 S.No.105)		(Left)
39.	M.A. Sheikh	28.8.81	27.8.82
	(see R-21 P. 7 S.No.55)		(Left)
	(see R-35 P.6 S.No.49)		
40.	Nirmalkumar Hariram	4.2.78	3.2.79
	(see R-65 P.24 S.No.208)		(Left)

7. It is thus quite evident that the petitioners, last worked as casual labourer much prior to 1982. It is pertinent to note that it is not the case of the petitioners that their services are terminated by any order of retrenchment in writing. They have come out with a plea that they have been orally retrenched from service on 26.9.86. Presumably, they have come out with such a version in order to conceal their long absence since, the dates shown in the above table, indicating their voluntary act of abandoning the employment. A person like the petitioner can hardly

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afford to remain absent without being gainfully engaged elsewhere. Ordinarily, in case of difficulty or inability to attend, a casual labourer would either inform the higher officer or make any representation himself or through recognised trade union or approach competent Court or Tribunal for redressal of his grievance. Nothing of the sort, seems to have been done by the petitioner in this case. For the first time, in the application filed by them on 6.10.1987, they have come out with the version that they are orally retrenched from service on 26.9.1986.

8. Shri Vin's contention that retrenchment has not taken place in the case of the petitioners, appears to be correct. The word "Retrenchment" has been defined under section 2 (00) of Industrial Disputes Act, 1947 as under :

"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise, than as a punishment inflicted by way of disciplinary action, but does not include -

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation of the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or
- (c) termination of the service of a workman on the ground of continued ill-health ;

The retrenchment is mode of termination of service. It can be brought about by dismissal, discharge, removal from service. As per the present definition, it means termination by the employer of service of the workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action. "For any

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reason whatsoever" are now key words. There is divergence of the judicial opinion on the question. Whether the expression, "any reason whatsoever" is susceptible to any limitations or admits no exception. The correct law in view of ratio decidendi derived from various decision including, (1) State Bank of India V/s. N.Sundramoney (1976 (1) I.L.J.P. 478 S.C.) (2) Hindustan Steel's case, 1977 (1) I.L.J.P. 1 (S.C.) (3) Delhi Cloth Mills Case, 1977 Lab. I.C. 1695 (SC.S).., (4) Santosh Gupte V/s. State Bank of Patiale C.A.No. 3563/1979 decided by S.C. on 29.4.1980, (5) Barsi Light Co., Case, 1957 (1) L.I.J. P. 243 (S.C.) and (6) Union of India V/s. S.B. Chatterjee Case 1980 R.D.W. P.138, where the Court on construction of "retrenchment" as defined in Section 2 (00) has unequivocally stated "retrenchment" means discharge of surplus labour or staff by the employer for any reason whatsoever. In the instant case, the petitioners' services have neither been terminated nor they have been removed from service. It is not reasonable that they should get compensation, under I.D. Act on the basis that they have been retrenched.

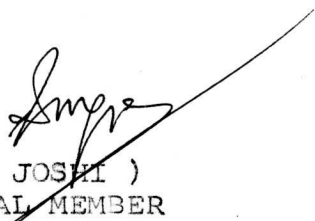
9. It is true that under common law an inference that an employee has abandoned or relinquished service is not easily drawn unless from the length of absence and from other surrounding circumstances an inference to that effect can be legitimately drawn and it can be assumed that the employee intended to abandon service. Bearing in mind all the facts and circumstances of this case, we have no hesitation in holding that the petitioners intended to abandon service since the dates shown in the



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Table reproduced earlier. Thus, as petitioners have relinquished their service since the said dates, they are not entitled to the relief as prayed for. More over there are grounds to believe that the grievance, if any, had arisen much prior to 1982, that is, three years prior to 1-11-1985. A perusal of section 21 (2) clearly shows that if the grievance had arisen by reason of action or order made beyond three years from the date, the Tribunal exercised its jurisdiction in respect of the matter to which such action or orders relates, then the application can not be admitted (see Shri A.C. Bose V/s. Union of India & Ors. A.T.R. 1986 (2) C.A.T.642). It is not established that petitioners had worked as casual labourer on project. It is therefore, difficult to hold that petitioner can claim any benefit of the scheme prepared by the Railway Board, in terms of the directions issued in the case of Indrapal Yadav (supra).

10. In the facts and circumstances of the case, it is clear that the petitioners have failed to establish their claim. Accordingly, the application has no merit and fails. The application therefore, stands dismissed, with no order as to costs.

  
( P.M. JOSHI )  
JUDICIAL MEMBER

  
( P.H. TRIVEDI )  
VICE CHAIRMAN