

CENTRAL ADMINISTRATIVE TRIBUNAL

~~XX XXXX CR XXXX BENCH XXXX~~

AHMEDABAD BENCH. AHMEDABAD.

O.A No.
~~XXXXX6X~~

645 OF 1987

DATE OF DECISION 28-6-1991

Shri Manivel Armugam and Others ^{petitioner}

Shri Y.V.Shah

Advocate for the Petitioner (s)

Versus

Union of India and others

Respondent

Shri B.R.Kyada.

Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. M.M.Singh : Administrative Tribunal

The Hon'ble Mr. S.Santhana Krishnan : Judicial Member

JUDGMENT

1. Union of India, Through
The General Manager,
Western Railway,
Churchgate,
BOMBAY - 20

2. Chief Engineer (C)
Western Railway,
2nd floor,
Station Building,
AHMEDABAD - 2

: Respondents.

J U D G E M E N T

Date : 28-6-1991

O.A./645/87

Per : Hon'ble Mr. S.Santhana Krishnan : Judicial Member

(1) The applicants have come forward with this application as per the provision of Administrative Tribunals Act 1985, claiming full wages ~~or~~ for the period 21.8.1981 to 18.10.1985.

(2) The applicants claim in their application that the respondents transferred them from Construction department of Rajkot Division to Jaipur Division away and out of department to Open Line Department. The applicant challenged the order by filing writ petition No.4242/85. The High Court granted stay against the transfer out of division. As the IIInd Respondent flouted the order, they filed another writ petition No. 4676/85 in which the High Court directed the respondents to pay wages for interim period within two days. Thereafter, the IIInd Respondent filed Review petition No.733/85 to review the order passed in Writ petition No.4676/85. This was rejected by the order dated 24.9.'85. Thereafter, the



(6)

applicant had not been paid the wages but as they were transferred to Jaipur Division. They filed a contempt petition No. 793/85. The IIInd Respondents through his advocate had made a statement that the applicant will be provided work in the Construction Department and wages will be paid for the intervening period.

(3) The respondents in their reply claim that the application is time barred and that the applicant cannot jointly file one application. It is admitted that a statement was made in the High Court. Accordingly the High Court directed that wages for the intervening period be paid regularising their absence according to the prevalent rules. After adjusting the leave available, the dues was paid and the matter was disposed off finally on 2.9.'85. The leave due to the applicants and the amount paid to them are shown in Annexure R-1 as on 1.1.'84. Now due to change in orders they are entitled for temporary status as on 1.1.'81. Hence some more leave would have been due to their account and therefore the question of payment for remaining of their absence can be considered by adjusting the same against the leave earned by them for the year 1981 to 1983. Hence they contend that they are not entitled to calim any relief.

(4) Heard Mr. Y.V. Shah counsel for the applicants and Mr. B.R. Kyada counsel for the respondents.

(5) The applicants claim in part 3 of the application that the petition is filed against the order dated 1.1.'87

[Signature]

(10)

The applicants have not chosen to produce any such order. It is seen that the applicants in this application claim full wages for the period 21.7.'85 to 18.10.'85. Any application claiming wages ought to have been filed, within one year from the date of the order. The present application is filed on 13.12.'87 and no reason is shown in the application for the delay. Hence the present application is barred by limitation.

6) In this application 38 applicants have joined together and filed one application. The applicants failed to file any application under Rule 4 (5), seeking permission for joining more than one applicant. Even on this ground the application is liable to be dismissed.

7) Even taking for granted that the applicants are entitled to the amount claimed, in this application the burden is on them to establish that they are entitled to claim full wages between 21.7.'85 to 18.10.'85. The applicants placed reliance on Annexure A-4 the order passed by the judges of the Gujarat High Court on 18.10.'85. The relevant observation in this order is as follows:

"The Railway Administration will pay the wages of the intervening period in accordance with Law".

Hence the High Court never directed the respondents to pay full wages to the applicants. Hence the applicants fail to establish that they are entitled to claim full wages during the above said period.



On the other hand the respondents have shown that all the wages due to his applicants between 21.7.81 to 18.10.85 were duly considered and their absence was regularised in accordance with Law. As per the rules the leave due to them is credited and the balance amount was paid. The respondents have also produced Annexure R-1 to show how much leave is due to each applicant and how much amount each applicant was paid. The applicants have not chosen to file any rejoinder disputing the working sheet provided by the respondents. The respondents have also admitted that they are prepared to consider leave credit of the applicants from 1.1.81 in view of the change in orders. It is open to the applicant to approach the respondents and work out their leave due from 1.1.81 and claim the balance amount if any due to them.

The applicants have come forward with this application claiming full wages for the period 21.7.75 to 18.10.85. The applicants will have to produce an order to show that they can claim full wages for the above said period. They failed to produce any such order. The respondents as per law rightly worked out the leave available to the applicants and paid the amount due to each applicant taking into consideration, the availability of leave of each applicant. Hence the applicants failed to establish, that they are entitled to claim the amount for the intervening period (viz), full wages between 21.7.85 to 18.10.85. Hence the application is devoid of merits and accordingly the same is dismissed. No orders as to costs.