

7/11
CAT/J/12

CV. S. Somaiya
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
NEW DELHI

O.A. No. 549 OF 1983
T.A. No.

DATE OF DECISION 12-07-1991

Ashabhai Som And Others Petitioner

Shri P.H.Pathak 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. P.H.Trivedi : Vice Chairman

The Hon'ble Mr. S.Santhana Krishnan : 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*

DD8

1. Ashabhai Som,
2. Nandubhai Nayabhai
3. Ratnubhai Ramubhai
4. Jiviben Kanabhai
5. Kariben Surabhai
6. Laxmiben Meghabhai
7. Rambai Kana,
8. Rambai Devraj,
9. Lakhmabai Pachbha,
10. Lilabai Thobhan,

C/o. Association of Railway and
posts and Telegraphs,
having its Office at
37, Pankaj Society,
Paldi,
Ahmedabad.

...Applicants.

(Advocate : Mr.P.H.Pathak)

Versus

1. Union of India and Others,
(Notice to be serve through
Divisional Engineer (II),
Western Railway,
Kothi Compound,
Rajkot.
2. Permanent Way Inspector
Western Railway,
Near Railway Station,
Chansma.

...Respondents.

(Advocate : Mr.B.R.Kyada)

JUDGMENT

O.A. NO. 549 OF 1988

Date : 12-07-1991

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

In this application under Section 19 of
the Administrative Tribunals Act, 1985, the applicants
claim the following reliefs :

(a) That the Hon'ble Tribunal be pleased to
declare the impugned verbal order dated
20.8.1988 transferring applicants to Sapi
issued by the respondent no.2, as illegal,
invalid and inoperative in law and be
pleased to quash and set aside it.

(b) Be pleased to declare the impugned actions of the respondents to transfer the applicant from Chansma to Sami as contempt of court and be pleased to punish the respondents, and further direct the respondents to obey the orders passed by this Hon'ble Tribunal in T.A.No.477/86.

(c) Be pleased to direct the respondents to grant temporary status to the applicants as per the directions of Hon'ble Supreme Court and direct to pay the dues with 12% interest.

(d) Be pleased to direct the respondents to pay special costs of this application to the applicants who are the casual labourers.

2. On 29.8.1988, the following order is passed by this Tribunal.

" Heard Mr.P.H.Pathak and Mr.B.R.Kyada, the learned advocates for the applicant and the respondents respectively. By the verbal impugned order, the petitioners belong to casual labourers who are sought to be asked to work from some distance of their present station in the same division. In the circumstances of this case, the application be admitted and the respondents be called upon to reply on interim relief within 15 days and on merits within 45 days. Ad-interim relief for a period of 15 days, be allowed in the following terms :

There shall be no transfer of the petitioners if the respondent-railway authorities redeploy the labourers, they may do so within such authority for redeployment as the respondents may have and subject to specifying the period and payment

of allowance as is required of them."

3. The respondents filed a reply wherein they claim that the applicants were originally employed as a labourer under the mate by name Asha bai and that when the work was over, an order was given on 19.8.1988, to the Mate requiring the workers who worked under him be shifted to another place where work was available. In view of the order passed by the Tribunal, the respondents have taken back, the applicants at original station where they were working. Hence the applicants cannot claim any relief in this application.

4. The applicants thereafter filed Contempt Application No.59/88, and it is seen from the reply that the applicants were engaged from 12.10.1988.

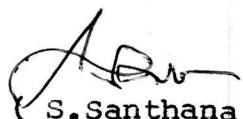
5. The only argument of the counsel appearing for the applicants now is that, the applicants were not employed in pursuance of the Tribunal's order by the respondents from 29.8.1988 to 12.10.1988, and they should be paid their wages. For this the counsel appearing for the respondents rightly point out that the applicants have not claimed any wages in the original application. His further contention is that after the contempt application the applicants ought to have amended and claimed wages during the above said period. Even otherwise the applicants will have to approach the respondents, how the above said period has to be treated under the Rules and the respondents will have to find out from the Rules how the above said period has to be treated. If the applicants have got any grievance they thereafter can file an application over that order.

[Signature]

(S) (TT)

6. We find some force in the contention of the learned counsel appearing for the respondents. The applicants have not claimed any wages in their Main application. Where as the applicants contended that the respondents refused to employ them inspite of the interim relief granted by the Tribunal, the counsel appearing for the respondents contend that the applicants reported for duty only on 12.10.1988, and immediately they were taken at the original station where they were working. The question who is at fault cannot be decided in this application as there are no allegations in the application on this aspect. Either the applicants will have to file a fresh application claiming wages for the period 29.8.1988 to 12.10.1988, or approach the respondents and require them to treat the above said period as per the Rules.

7. In view of the above discussion the applicants are not entitled to claim any relief, regarding wages in this application, as such the application is liable to be dismissed and accordingly it is dismissed. We however, make no order as to costs.



S. Santhana Krishnan)
Judicial Member



(P.H. Trivedi)
Vice Chairman

in

O.A./549/88

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

21/11/1988

Heard learned advocates Mr. P.H. Pathak and Mr. B.R. Kyada for the petitioners and respondents respectively. The petitioner has not filed a copy of the order regarding which the impugned contempt has been alleged in the Contempt Application No. 59/88 and the Registry should have ~~been~~ checked that without it, the contempt application being not complete is not put on the Board. This deficiency will be ~~rectified~~ justified.

No report in reply to the notice issued following the contempt petition has been received. Learned advocate for the respondents states that in his absence, the Law Assistant of the respondent authorities had made a statement that the petitioner will be taken back, but there is no record of it in the proceedings before Registry. There should have been a report in reply to the notice. The respondent allowed another opportunity to file a report within 10 days explaining the reasons for delaying and also the present position regarding compliance.

Learned advocate for the petitioners states that the petitioner ~~have~~ been threatened with dismissal or termination to which learned advocate for the respondents objects by stating that the

(D)

petitioners having already taken back, there is no such threat and the respondents cannot be stopped from taking action against the petitioners on separate ground if they exist. The case be posted on rectification as stated above after 10 days.

Ansir

(P H Trivedi)
Vice Chairman

JM

(P M Joshi)
Judicial Member

*Mogera

(B)

Coram : Hon'ble Mr. P.H. Trivedi : Vice Chairman
9/12/1988

Heard Mr.P.H.Pathak and Mr.B.R.Kyada learned advocates for the applicants and respondents. Mr.Pathak states that the order dated 29/8/1988 was not implemented in terms when learned advocate for the respondents states that the petitioners were taken back in service that was only from 16/10/1988 and not from the date from which they were required to be taken back under our order dated 29/8/1988. The respondents have not given any report although we have specifically directed by our order dated 29/8/1988 to do so. Notices therefore, again should be issued to the respondents to file a report within 15 days stating why they have not filed a report by our previous order dated 6.10.1988 and further on 21.11.1988. In their report they should specifically state that if the petitioners have been taken back the date thereof and why they have not been taken back from the date according to our order dated 29.8.1988. The matter will be gravely viewed if no report is forthcoming and necessary steps have not been taken causing further delay. The case be posted on 6th January, 1989 for orders.

Phew

(P.H.Trivedi)
Vice Chairman

a.a.bhatt