

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

NO
CL Regularisation

(9)

O.A. No. 600 OF 1988
TAX NO

DATE OF DECISION 3rd February, 1993.

Shri Sukhabhai Somabhai and Ors. Petitioner

Shri P.H.Pathak. Advocate for the Petitioner(s)

Versus

Union of India and others Respondent

Shri R.M.Vin Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V.Krishnan : Vice Chairman

The Hon'ble Mr. B.S.Hegde : Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ↘
3. Whether their Lordships wish to see the fair copy of the Judgement ? ↗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ↗

10

1. Sukhabhai Somabhai
2. Ranchhodhbhai Devabhai
3. Jerambhai Channabhai
4. Gordhanbhai Naranbhai
5. Dhirubhai Bhusabhai,
6. Raysibhai Ramabhai,
7. Bhagwangiri Jethagiri,
8. Ishwardas Vallabhdas,
9. Karubhai Mavjibhai
10. Chunilal Premjibhai
11. Chhaganbhai Devshibhai,
12. Bhailabhai Bhikhabhai,
13. Gaurishankar Shivedatt,
14. Karpabhai Nannibhai
15. Vejabhai Magrabhai,
16. Dhirubhai Tapubhai,
17. Bachubhai Lakshamanbhai,
18. Gajubhai Valabhai,
19. Laduben Hamirbhai,
20. Sutriben Harsinh,
21. Kariben Ratabhai,
22. Rambai Madan,
23. Sita Khushali,
24. Dinesh Bhovan,

C/o. Association of Railways
and Posts Employees, 37, Pankaj
Society, Paddi, Ahmedabad.

...Applicants.

(Advocate : Mr.P.H.Pathak)

Versus

1. Union of India,
Notice to be served through
the General Manager,
Western Railway,
Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway,
Bhavnagarpara,
Bhavnagar.

...Respondents.

(Advocate : Mr.R.M.Vin)

ORAL JUDGMENT

O.A.NO. 600 OF 1988.

Dated : 3rd Feb.1993.

Per : Hon'ble Mr.N.V.Krishnan : Vice Chairman

The applicants were, at the relevant time,
working at Jakhwada near Ahmedabad under the P.W.I. (C)
Ahmedabad ant the I.O.W.(C) Sabarmati. They were transferred
by orders dated July, 26, 1988 to Bhavnagar Division

V2

...3...

and asked to report at that Headquarter. They did so on 29-7-1988, but were not entertained. They were told that there was no work and they were asked to go back to Ahmedabad. They were thus shunted between these two places and were not given work at the Bhavnagar Division.

2. The applicants therefore, immediately approached the Tribunal by filing this Application and sought the following reliefs:

- "(a) That the Hon'ble Tribunal be pleased to direct the respondent no.2 to regularise the services of the applicants from the date when their juniors are regularised by the respondent no.2 in light of the judgments of the Supreme Court of India.
- (b) Be pleased to direct the respondents to pay the wages and duty allowances to the applicants from 26/27-8-1988 with 12% interest.
- (c) Be pleased to hold that the action on the part of the respondents in delay payment as illegal, invalid and inoperative in law and be pleased to direct to pay ten times penalties as per the provisions of Payment of Wages Act.
- (d) Be pleased to direct the respondent no.1 to punish the respondent officers for the shunting of the casual labourers from pillars to posts and for non-payment of wages."

Vr

3. Before admission, an interim order was passed on 4-10-1988 directing the respondents to pay the admissible wages for a period of one month. Subsequently, on 24-11-1988 after admission of the Application, an interim order was passed declaring that the applicants are entitled to receive the wages for the period until 9th December 1988.

4. The respondents have filed a reply explaining the circumstances under which the transfer was made and why it was not possible to take the applicants on duty at Bhavnagar on transfer. It is stated that the Bhavnagar Division already had a sufficient work force with them, which was sufficient for the work available. Hence they could not be taken on duty for some time and therefore they denied that any relief is due to the applicants.

5. When the case came for final hearing to-day, Shri P.H. Pathak, learned Counsel for the applicants, submitted that there has been a subsequent development. The applicants have now been engaged in Bhavnagar Division with effect from 12-12-1988. He, therefore, submitted that he would press only the prayer at sr.No.(6) and not the others, which might be kept open. The prayer thus is that from the date the applicants reported on transfer i.e. from 27-8-1988 till the applicants were engaged in the Bhavnagar Division on 12-12-1988, wages should be paid to them.

6. Shri Vin, learned Counsel for the respondents contended that if there was no work, it would not be appropriate to direct the respondents to make payment of wages. It was pointed out to him that the applicants

claim that they belong to the Bhavnagar Seniority List, as would be clear from para 2 of the Annexure A-2, D.O. letter dated 16th August, 1988 addressed by Deputy Engineer Construction to the Senior Divisional Personnel Office, Bhavnagar. If that be so and if work was not available the junior most persons should have been dropped after engaging the applicants even, ^{though} they might have come on transfer.

7. We have perused the records of the case. The respondents have not established that the applicants were the junior most persons in the Bhavnagar Division. Therefore, ^{not} the respondents were right in not giving them employment when they reported for duty on 29-7-1988. In these circumstances, we are satisfied that this is a case where the applicants have been deprived of wages out of turn for the period 29-7-1988 to 12-12-1988 and they are entitled to relief.

8. For these reasons we dispose of this application with the following directions.

(a) In so far as the period from 29-8-1988 to 12-12-1988 is concerned, we declare that the applicants are entitled to wages from the Bhavnagar Division.

(b) If wages have not been paid for this period fully, we direct the respondents to pay such wages to them, within one month from the date of receipt of this order, after adjusting amounts paid under the interim orders dated 4-10-1988 and 24-11-1988.

(c) We make it clear that we have not considered the other issues raised in this application and they are left, open.

(14)

9. Application is disposed of with no order
as to costs.

B.S. Hegde
(B.S. Hegde)
Member (J)

N.V. Krishnan
3.2.83
(N.V. Krishnan)

Vice Chairman.

*AS.