

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 25 of 1989  
~~P.A. No.~~

DATE OF DECISION 30.1.1992

Shri Kakhubhai Punjabhai Petitioner

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

Versus

Union of India & Ors. Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt : Member (J)

The Hon'ble Mr.

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?

(6)

Shri Lakhubhai Punjabhai

: Applicant

(Advocate : Shri P.H. Pathak)

VS.

Union of India & Ors.

: Respondents

(Advocate : Shri B.R. Kyada)

O R A L - J U D G E M E N T

O.A. No. 25 of 1989

Date : 30.1.1992

Per : Hon'ble Mr. R.C. Bhatt

: Member (J)

Heard learned advocate Mr. P.H. Pathak for the applicants and Mr. B.R. Kyada for the respondents. Twenty-six casual labourers working with respondent no. 3 in Jamnagar are, according to the applicants, sought to be transferred to Bhavnagar from 6.7.1989 by verbal order. The allegation of the applicants in this application filed under Section 19 of the Administrative Tribunals Act, 1985, is that no written order is given to the applicants for transfer and till that order the respondents cannot act on any oral direction or order. It is alleged in the application that the applicants requested respondent no. 3 to give written order to enable them to know whether their transfer is on duty and what is the reason for transfer. The applicants

have produced at annexure 'A' the letter from Assistant Engineer (C) Jamnagar to PWI (C) Jamnagar, Rajkot dated 2.1.1989 which reads as under :-

" In supersession of this office letter of even number dated 26.12.1988, all the casual labourers belonging to the seniority group of Rajkot Division and working with you, are also to be directed to BRM(E) BVP immediately in terms of CE (C) West -COG (Shri J.S. Gehlot). Their service particulars and other information may also be sent along with them without any delay. Please treat this as most urgent."

The learned advocate for the applicant submitted that apart from the fact that casual labourers cannot be transferred in view of para 2001 of Indian Railway Establishment Manual, Volume II, Revised Edition 1990 there is no written order served on the applicant also, hence the verbal order of transfer be declared as invalid and illegal. There are other prayers sought in relief. However, relief B & C cannot be granted because it would be a multiple relief and the arguments are advanced on the relief (A) only. Therefore, I will consider relief 'A' prayed by the applicant.

2. Learned advocate for the respondents took preliminary objection of maintainability of this application on the ground that the applicants cannot join in this

composite application without first seeking permission under the Rules before this Tribunal. While it is true if that/more than one applicant wants to join in the application under Section 19 of the Administrative Tribunals Act, 1985, they have to take the permission as required under Rule 4 (5) (a) of the Central Administrative Tribunals (Procedure) Rules 1987. However, in the instant case reading the order of the Division Bench of this Tribunal dated 11.1.1989, the Tribunal after hearing both the learned advocates ~~have~~ passed the order of ad-interim relief. Thereafter another order was passed on 23.8.1989 also by the Division Bench admitting the application after hearing both the learned advocates. Therefore, now after about three years, it would not be just and proper to consider the preliminary objection raised by learned advocate for the respondents. No doubt the rule is there, but the matter was admitted in 1989. However this objection of learned advocate Mr. Kyada <sup>regard to the</sup> will not have much significance having facts of the case. The written order, according to the learned advocate for the applicants is not served on the applicants and regarding Annexure 'A' it cannot be said that it is the order in writing ~~which~~ served on the applicants. It is not necessary to go into much detail, though, the respondents have in their reply contended that no verbal order as <sup>was</sup> alleged was issued ~~but~~ the applicants were directed to

work at Bhavnagar looking to the exigency of the work and therefore that action on the part of respondents does not amount to transfer. The respondents have referred to annexure 'A' of the application. Reading annexure 'A' it is clear that it is either shifting or ~~in other words~~ asking the applicants to go from one division to another. Learned advocate Mr. Kyada submits that after the interim order of stay granted by this Tribunal on 11.1.1989, the applicants are not shifted and there is no question of any implementation of annexure 'A' order dated 2.1.1989. In this view of the matter, it is not necessary to consider other points. The result will be that as the respondents have not shifted the applicants from the place of work where they were working on the date of application and as the respondents have no intention of implementing annexure 'A' dated 2.1.1989, it is not necessary to pass any order regarding the impugned oral transfer order. The application is disposed of as the applicants are working on the same station at Jamnagar and as the respondents do not desire to implement annexure 'A' dated 2.1.1989. Application is disposed of. No order as to costs.

*Renu*  
( R.C.BHATT )  
Member (J)