

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

NO
CL Transfer

O.A. No. 35 OF 1989.
~~XXXXXX~~

DATE OF DECISION 16-2-1993

Allimutha Chinnaswamy & Ors. Petitioner s

Mr.R.A.Variyava for Mr.Akil Kureshi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. N.S.Shevde, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. V.Radhakrishnan, Admn. Member.

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 ? ✓

1. Allimutha Chinnaswamy
2. Periyaswamy Keshwan
3. Tangaraj Poonuswamy
4. Pohamutha Santhanam
5. Chinathanbi Muthaswamy
6. Subramniyam Karapan
7. Sampurnam Andappan
8. Armugam Motiyan
9. Vali Hurtan
10. Vasautta Ayyaperumal
11. Kamla Rangaswamy
12. Mayawan Algamutha
13. Tangraj Kaliyan
14. Muchuswamy Subrayan
15. Seroja Tangwel
16. Elangwan Keshwan
17. Kolouji Nadakalai
18. Vasni Hurtan
19. Anjali Armugam
20. Perumai Krishnan
21. Sama Hima
22. Samuda Motiya
23. Periamma Andai
24. Govind Vasram
25. Mukai Mayawan
26. Vishia Jaisingh
27. Alagasan Nathu
28. Kirushnavelm A.
29. Markrmuthi M.
30. Thangnel C.
31. Amrthen P.
32. Bapy M.
33. Chinuapelli C.
34. Adiyar H.
35. Vengatachalen R.
36. Anthoniyamma C.
37. Lalsi S.
38. Limpo T.
39. Veluswamy C.
40. Periyamal M.
41. Rangaswami M
42. Nallu
43. Jyoti Anand
44. Amritham Muthaian
45. Anjalai Thangavel
46. Mayavan Adhimulam
47. Kolan G.
48. Sethara E.

Address: C/o. PWI(C) Ahmedabad
Western Railway, Railway Station,
Ahmedabad.

.... Applicants.

(Advocate: Mr. R.A. Variyave for
Mr. Akil Kureshi.)

Versus.

1. The Union of India,
Notice to be served to
the Chief Engineer (Construction),
Western Railway, Churchgate,
Bombay.
2. XEN(C) I - Ahmedabad,
Western Railway,
Ahmedabad.

3. PWI (C),
Western Railway (Ahmedabad),
Ahmedabad. Respondents.
(Advocate: Mr. N.S. Shevde)

ORAL ORDER

O.A.No. 35 OF 1989

Date: 16-2-1993.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard Mr. R.A. Variyava for Mr. Akil Kureshi,
learned advocate for the applicants and Mr. N.S. Shevde,
learned advocate for the respondents.

2. 48 applicants, who are casual labourers
serving with the Western Railway have filed this
application under section 19 of the Administrative
Tribunals Act, 1985, seeking the relief that the order
Annexure A-1 dated 9th January, 1989, Ann. A-2 dated
13th January, 1989 and Ann. A-3 dated 17th January,
1989 be quashed and set aside by which the applicants
are sought to be transferred from the place located in
Baroda Division to Rajkot Division. It is alleged
by the applicants that the said orders are illegal,
unjust and unlawful.

3. The respondents have filed reply contending
that the Applicant No. 1 has already written a letter
to the respondent No. 3 requesting him to send the
applicant to Rajkot Division for his absorption in view
of the order dated 25th September, 1989 issued by the
Rajkot Division regarding his absorption and the

applicant No.1 has been released also by the respondent No.3 on 6th October, 1989 to ^{him} ~~enable~~ to report at Rajkot Division and hence no cause survives for applicant No.1. More over, the applicant No. 1 and his advocate also issued letters stating inter alia that the name of the applicant No. 1 would be withdrawn from the said Writ Petition No. 1174/89. It is contended that the order of transfer is legal and valid. The respondents contended that the applicants were working in Construction Department which is different from the Baroda division.


4. At the time of hearing of this application, the learned advocate for the respondents submitted that so far applicant No.1 is concerned, he has already joined the Rajkot Division and now there is no cause of action surviving to prosecute this application, hence the application so far applicant No. 1 is concerned, will not survive. The learned advocate for the respondents submitted that ^{so far} applicant No.3, 4, 6, 23, 24, 27, 39, 40 & 46 are concerned, they have voluntarily accepted to go to the ^{originative} ~~originative~~ division for their absorption and hence now no cause of action survives regarding these applicants. The learned advocate for the applicants also agreed to this factual aspect mentioned by the learned advocate for the respondents. Hence now no cause of action survives for these applicants. So far Applicant No. 19 is concerned,

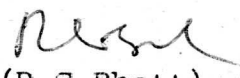
ms

the learned advocate for the respondents submitted that there is no such employee ~~is~~ working in the construction, ^{name} ~~namely~~, Anjali Armugam, which fact is also not disputed by the learned advocate for the applicant. So far the rest of the applicants are concerned, the learned advocate for the respondents submitted that the respondents will not implement the impugned orders Annexure A-1 or A-2 or A-3. Hence the following order is passed.

ORDER

Application is dismissed, so far applicant No. 3, 4, 6, 19, 23, 24, 27, 39, 40 & 46 are concerned. The interim relief granted earlier is vacated with regard to these applicants. So far the rest of the applicants are concerned, the question of continuing the interim relief will not survive because the respondents will not implement the impugned orders Annexure A-1 or A-2 or A-3 as stated at the bar by the learned advocate for the respondents under the instructions of the respondents' officer. The respondents will be at liberty to issue any fresh order according to rule. In this view of the matter the application is now dismissed. Interim relief granted earlier is vacated. No order as to costs.


(V. Radhakrishnan)
Member (A)


(R. C. Bhatt)
Member (J)

W 2128285 65
U. No. 18 (F/S)
Copying & Comp-Charges
Total.



Recd by
Examiner: V. K. S. at
19

In the High court of Gujarat at Ahmedabad.

SECTION OFFICIAL

Decree Department

District; Baroda. 21/10/1989.

Special civil application No. 1174 of 1989.

Copy applied on 9/10/89
Copy ready on :
Copy delivered on 21/10/89
Sent by
Regd. Post.

Assistant.

In the matter of Article
226 of the Constitution
of India;

and

In the matter of Articles
14 and 21 of the
Constitution of India;

and

In the matter of Railway
Establishment Rules;

and

~~In the matter of~~
~~of the Industrial~~
~~Disputes Act, 1947;~~

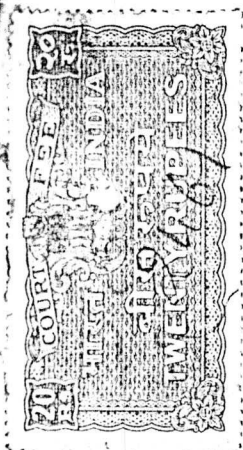
and

In the matter between-

1. Alliruthy Chinnaswamy
2. Periyaswamy Keshwan
3. Tangaraj Ponnuswamy
4. Pohanutha Santhanam.
5. Chinathanbi Muthaswamy
6. Subramaniam Karapan
7. Sampurnam Andappan
8. Armugam Motiyah

9. Vali Nurtain
10. Nasautta Ayyaperumal
11. Kamla Rangaswamy
12. Mayawan Algamutha
13. Tangraj Kaliyan
14. Muchuswamy Subrayan
15. Saroja Tangwal
16. Elangwan Keshwan
17. Kolouji Nadakalal
18. Vasni Nurtan
19. Anjali Ayyaswami
20. Perumal Krishnan
21. Sama Hima
22. Samuda Motiya
23. Periamma Audai
24. Govird Vasram
25. Mukal Mayawan
26. Vishia Jaisingh
27. Alagasan Mathu
28. Kirushnavelm A.
29. Markrmuthi M.
30. Thangnel C.
31. Amrthen P .
32. Bapy M.
33. Chinunelli C.
34. Adiyar H.
35. ~~Govin dan Perumal~~
~~Vengatachalan R.~~
Perumal order dated 16.2.89
36. Authoniyamma C. Akil kuredi.





37. Lalai S.
38. Limpo T.
39. Veluswami C.
40. Periyamal M.
41. Rangaswami M.
42. Nallu Pway Matte.
43. Jyoti Anand
44. Amritham Muthaim.
45. Anjalai Thangavel.
46. ~~Meyyavan~~ ^{Chitra Ema} ~~Adhiniam~~ Per court order dated 16-2-59
47. Kolan G.

Athithuram

Address of all the petitioners:-

c/o PWI (C) Ahmedabad,
Western Railway, Railway station,
Ahmedabad.

..Petitioners.

Versus

1. The Union of India,
(Notice to be served to
the Chief Engineer (Construction)
Western railway, Churchgate,
Bombay).
2. XEN (C) I- Ahmedabad,
Western railway,
Ahmedabad.
3. PWI (C),
Western railway (Ahmedabad),
Ahmedabad.

..Respondents.

..4..

Being Special Civil Application No. 1174 of 1989.

Mr. Akil Qureshi, Advocate for the petitioners.

Mr. J.C. Sheth, Advocate for the Respondents.

Court's order

Mr. Akil Qureshi, learned Advocate for the petitioners seeks permission to withdraw the petition as the petitioner, intend to file a petition before the Administrative Tribunal. Mr. Qureshi, also requests that meanwhile the ad-interim relief granted by this Court may be continued for four weeks. Permission granted.

Ad-interim relief granted by this Court to the effect that the impugned orders Annexures 'A', 'B' and 'C' may not be implemented qua the petitioners, is continued upto 16-11-89.

Disposed of as withdrawn. Notice discharged.

19-10-89

Sd/- P.M. Chauhan, J

True Copy

For Deputy Registrar

The 9th day of Oct. 89

