

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(1)

O.A. NO. 528 of 1989
T.A. NO.

DATE OF DECISION 09-3-95

Shri Karsan Daya & others **Petitioner**

Hr.P.H.Pathak

Advocate for the Petitioner (s)

Versus

Union of India & Others **Respondent**

Mr.R.M.Vin

Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. Mr.V.Radhakrishnan Member (A)

The Hon'ble Mr. Dr.R.K.Saxena, Member (J)

JUDGMENT

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

47

CAT 193

СЕРГИЙ АДМИНИСТРАТИВНЫЙ ТРИБУНАЛ

ДЕНЬГИ АДМИНИСТРАЦИИ

.02,5,0
.02,5,0

DATE OF DECISION

Plaintiff _____

Advocate for the Plaintiff(s) _____

8 08

Respondent _____

Advocate for the Respondent(s) _____

COPIES

Type Name of Mr _____

Type Name of Mr _____

MENT

Mr. W. per Executive Order dated 1980, the same is to occur on 1980.

Mr. W. is to be delivered to the Executive Order dated 1980.

Mr. W. is to be delivered to the Executive Order dated 1980.

Mr. W. is to be delivered to the Executive Order dated 1980.

(12)

1. Shri Karshan Daya
2. Shri Rama Megha
3. Shri Devshi Khima
4. Shri Maka Meru
5. Shri Chandu Arjan
6. Shri R.Jilubha

C/o. Dayabhoja,
At village Katkolla,
Taluka Bhanvadé
Dist: Jamnagar.

Applicants

(Advocatye: Mr.P.H.Pathak)

Versus

1. Union of India

Notice to be served through
The General Manager,
Western Railway,
Church Gate,
Bombay

2. The Asst. Engineer, (WR)
Railway Station Botad
Botad

3. Permanent Way Inspector,
Western Railway
Opp: Railway Station,
Bhinnath, Dhandhuka,
Ahmedabad.

Respondents.

(Advocate: Mr.R.M.Vin)

JUDGEMENT

O.A.NO.528 of 89.

Date: 09-3-95

Per: Hon'ble Mr. V.Radhakrihsnan: Member(A)

Heard Mr.P.H.Pathak and Mr. R.M.Vin Learned Advocates
for the applicant and the respondents respectively.

2.0 The applicants are Casual Labourers working
in the Railways. They joined service sometimes in
1979. They were working continuously up to May 1986
in Porbandar and Rajkot when they were transferred
to work under the Executive Engineer (C) Fulera,

lh



in Jaipur Division in Rajasthan Annexure-A. They were told that the transfer was temporary and no Transfer Allowance and joining time were granted to them. They were told that they will be brought back to their parent Division within a short time. They were not granted benefits of daily allowance. In December 1988, they were transferred from Fulera to work under the Divisional Engineer, Bhavnagar Annexure-A-1. Here also they were not given transfer T.A. The Divisional Railway Manager, Bhavnagar vide his letter dt. 27.12.88 again transferred the applicants to Botad Annexure A-2. Here again no transfer allowance permissible under the rules was granted to them. They were posted to work under PWI Bheemnath. Again applicants were transferred from Bheemnath to Dholka Annexure A-3. They were working under the Assistant Engineer Dholka up to 22.9.89 and again they were transferred to Bheemnath vide his order Annexure A-4. However, when they reported to PWI, Bheemnath, they were not taken on duty on account of non availability of work. The applicants claim that having obtained temporary status they have been illegally prevented from reporting for duty. They were also not paid transfer allowance for the transfer journey. Accordingly, they claim the following reliefs:

3.0 At the time of final hearing, it was brought to the notice by the Learned Advocate for the applicants Mr. Pathak that the applicants had since



been allowed to resume duty and hence they are confining the relief only to class C above, namely, payment of transfer allowances.

4.0 Respondents have filed reply. They have stated that the applicants were originally engaged by VOP Construction Organisation and after completion of work they were directed to work in Jaipur Division at Fulera. after completion of their work, they were sent to Bheemnath. According to them, being Casual Labourer, they were not entitled for transfer allowance. When they were ultimately transferred to Bheemnath, they had not reported for duty and hence there was no question of not giving the applicants any work. However, this contention of the Respondents lose its force as now the applicants have been taken on duty. In the rejoinder also the applicants have affirmed that inspite of reporting for duty before PWI, Bheemnath, they were not given any work. However, the present position is that all the applicants have been taken on duty. The only question to be settled is the question of payment of travelling allowance for the different transfers.

5.0 There is no dispute regarding the fact that the applicants had attained temporary status as there is no dispute about their working in Railways continuously from 1979. In this connection, we may refer to para 2005 of the Indian Railway Establishment Manual Volume II. Accordingly, as per the rules,

John

(15)

those Casual Labourers who obtained temporary status are entitled for rights and benefits admissible to temporary Railway Servants. Accordingly, the applicants who obtained temporary status are eligible for travelling allowance as for temporary Railway Servants. Hence, the Respondents are directed to regulate the claims of applicants in respect of their transfer orders issued and pay them the admissible travelling/daily allowance within a period of twelve weeks from the date of receipt of this order. No order as to costs.



(R.K. SAXENA)
MEMBER(J)



(V. RADHAKRISHNAN)
MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 041528/89 of

Transfer Application No. _____ of

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 05.04.95

Countersign :

ccday

Signature of the Dealing
Assistant

Sw/ 18585

Section Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD BENCH

INDEX - SHEET

CAUSE TITLE 041528189

NAME OF THE PARTIES Mr. Kaeson Daya & O/o.

VERSUS

U. S. I. & O. E.

SR. NO.	DESCRIPTION OF DOCUMENTS	PAGE
1	OA	110 16
2	Rept	17 10 30
3	Rejoinder	31 10 32
4	Judg. dtel 10 03 95	

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,

AHMEDABAD BENCH, AT AHMEDABAD.

ORIGINAL APPLICATION NO. 528 OF 1989.

Between :-

Applicant : Shri Ranjan Deyal & others.

Versus

Respondents : The Union of India & Others.

Application under Rule 3 of the
Administrative Tribunals Rules.

MAY IT BE PLEASED YOUR HONOUR :

That the applicants of the Original application are the Casual and are lowly paid employees. That the casual labourers are exempted in large number of cases by the Hon'ble Supreme Court from payment of Court-fees looking to their poverty. That in the main application, law point involved is the same as well as the respondents are also the same. That it is something impossible for the applicants to file separate application for the redressal of their grievances as they are receiving the wages which is not fair. That if the applicants are allowed to file a joint application, it will not harm the interest of administration. On the contrary, it will save the separate advocate fees and other miscellaneous expenditure of the administration. That on the other side, if the joint application is allowed to be filed then only the poor employees will be able to come forward for implementation of the fundamental rights.

26/194270
546

That in the aforesaid facts and circumstances of the case the applicants pray that they may be allowed to join the cause by filing a joint application for redressal of their grievances in the interest of justice.

Ahmedabad

Date: - - 1989

(D. H. Pathak)

Advocate for the Applicants

ST/555/89
29/11/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT AHMEDABAD

ORIGINAL APPLICATION No. 528 OF 1989

Shri Karshan Daya & others ... Applicants

Vs.

Union of India & Others. ... Respondents

I N D E X

sl. No.	Ann.	Particulars	Pages
1.	-	Memo of the petition	1 to 11
2.	A	Copy of the Transfer Order transferring the applicants to Fulera in the year 1986	12
	A1	Copy of the order of transfer transferring the applicants from Fulera to Bhavanagar	13
	A2	Copy of the letter dated 27.12.88	14 - 16
	A3	Copy of the letter dated 18.6.89	17
	A4	Copy of the letter dated 22.9.89	18
7.	A5	Copy of the Advocate's notice dated 30.9.89	19 - 20
8.	A6	Copies of the representations addressed by the applicants	21

2x

Ahmedabad

Date :

(P. H. Pathak)

Advocate for the Applicants

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AT AHMEDABAD

ORIGINAL APPLICATION NO. 528 OF 1989

I Applicants

1. Shri Karshan Daya
2. Shri Rama Megha
3. Shri Devshi Khima
4. Shri Maka Meru
5. Shri Chandu Arjan
6. Shri R. Jilubha

C/o. Dayabhoja
At Village Katkolla
Taluka Bhanvada
Dist: Jamnagar

Vs.

II Respondents

1. Union of India
Notice to be served through
The General Manager
Western Railway
Church Gate
Bombay
2. The Asst. Engineer (WR)
Railway Station Botad
Botad
3. Permanent Way Inspector
Western Railway
Opp. Railway Station, Bhimanath
Dhandhuka, Ahmedabad

III Order under challenge:- Non-allowing the applicants to resume their duties since 21.9.89 and non-payment of the wages from September 1989 and non-extending

the benefits of the judgement of
the Hon'ble Supreme Court in the
Indrapal Yadav Case.

IV & V Jurisdiction & Limitation:-

The applicants declare that the subject matter of this application is within the jurisdiction of this Hon. Tribunal and is within the limitation prescribed under Section 21 of the Administrative Tribunal Act.

VI Fact of the Case:-

The applicants are the Casual Labourers working under the respondent no. 2 & 3. That so far the applicant no. 1 to 3 are concerned, they have joined in the Service in Railway in the year 1979 at Porbandar and the applicants no. 4 to 6 have joined the services in the same year ie. 1979 at PWI, Rajkot. ~~No~~ No appointment order was given to the applicant at the time of initial appointment and the services cares of the applicants are in the custody of the respondents as they cards were collected by the respondents to prepare the combined divisional seniority list and to prepare the seniority list of the applicants. That the applicants are working continuously since their initial date of appointment. That since 1979 to May/July 1986 the applicants were continued at Porbander within the jurisdiction of Porbander and Rajkot respectively. In the month of May 1986 the applicants were transferred to work under the Executive Engineer (C) Fulera, which is situated in Jaipur division in Rajasthan. It is pertinent to note here that at the time of transfer in the year 1986, the transfer of the applicants were for less than three months. The applicants were given the transfer order stating that their transfer is a temporary transfer and therefore no travelling allowance and joining time were granted to the petitioners. At the time of transfer, it was the Executive Engineer passed the orders, he was in turn stated that the applicants will be brought back within 3 months to

their parent division. Relying on their words in good faith the applicants have ~~express~~ accepted the transfer, a ^{sample} ~~sample~~ copy which is available with one of the applicant is annexed and marked as Annexure A to this application. That by the said order the applicants were transferred to Fulera. That as stated in the order of transfer it was narrated as temporary transfer and therefore the applicants were not granted the benefits of Travelling allowances and packing allowance and joining time. That the respondent authority have acted ~~fraudulently~~ fraudulently with the applicants and though they were knowingfully well that it a long term transfer but with a view to deprive the applicants of the transfer allowance and packing allowances ~~express~~ as well as joining time, the sentence is added in the order. That till date the applicants are not granted the travelling allowance and packing allowances as well as joining time for the said transfer by the respondent authority.

2. It is submitted that the applicants were continued in service within the jurisdiction of Fulera upto 22.12.1988. That vide letter dated 22/20.12.88 the applicants were transferred back to work under the Divisional Engineer, Bhavanagar. The copies of the order of transfer, transferring the applicants from Fulera to Bhavanagar are annexed and marked as Annexure A1 collectively to this application. That the applicants are not granted the benefits of travelling allowances as per the provisions

of Railway Establishment Manual at the second time also i.e. when they are re-transferred to work under the Bhavanagar Division. The applicants with other labourers have reported to the office of the Divisional Railway Manager, Bhavanagar immediately. That the Divisional Railway Manager, Bhavanagar has vide his letter dated 27.12.88 again transferred the applicants from Bhavanagar to Botada, a copy of the letter dated 27.12.88 is annexed and marked as Annexure A2 to this application. That as per the said order the applicants were required to be absorbed. That for transferring the applicants from Bhavanagar to Botad also no transfer allowances ~~was~~ is permissible under the provisions of Railway Establishment Manual were granted to the applicants. The applicants were posted to work under the PWI, Bheemnath. Again applicants were transferred from Bheemnath by the PWI to the Assistant Engineer Dholia. A copy of the letter dated 18.6.89 is annexed and marked as Annexure A3 to this application. The applicants have worked under the Assistant Engineer Dholia upto 22.9.89 and again the PWI, Dholia has transferred the applicants to PWI Bheemnath, a copy of the transfer order dated 22.9.89 is annexed and marked as Annexure A4 to this application. The applicants have reported to the PWI, Bheemnath, Mr. Rao on 24.9.89. The PWI Bheemnath has said that there is no work and vacancy available with him and the PWI Dholia has wrongly transferred the applicants to work under him. The PWI Bheemnath has refused to resume their duties and has advised the applicants to put thumb impression on the blank paper which is likely to be used by him as a resignation from services of the Railway.

The applicants have requested the PWI to allow them to resume their duties but no fruitful result was available. That the applicants have immediately approached to the respondent no.2 and complained about the attitude of the PWI, Bheemnath. The applicants have informed the respondent no.2 that the PWI Bheemnath has not have any works and he cannot accommodate the ~~xxxxx~~ applicants. That after hearing the complaints of the applicant the respondent no.2 has said that he has to obtain the further posting orders for the applicants from the Division Office at Bhavanagar and the applicants were said to report him on 28.9.89. The applicants have again reported to the respondent no.2 on 28.9.89. The respondents No.2 has to go out of station and has not received any instruction from the Head office and informed the applicants to report him on 3rd October 1989. That during these period the applicants were sitting before the Office of the respondent no.3. That no fruitful result is available on 3rd October 1989 and the respondent no.2 has not given any instruction or order to the respondent no.3 nor the applicants were informed for reporting the duties on the contrary the respondent no.3 was insisting to obtain the thumb impression of the applicants on the blank papers, without assigning any reason. Thus due to communication or whatever other reason may the applicants are not allowed to resume their duties since 24.9.89. Neither applicants are given any further order of transfer or posting orders nor the services of the applicants were terminated by following the due procedure of law by the respondents and they are constrained to sit idle at the Office of the respondent no.3. The said action on the part of the respondent is ex facie arbitrary, illegal and unconstitutional and is

required to be quashed and set-a-side. It is submitted that the applicants have made several personal representations to the respondents and requested them to allow to resume their duties and incase there is no vacancy they may be referred to the Divisional Railway Manager, Bhavanagar for appropriate order. But no response was available from the respondents and the applicants were constrained to approach the advocate and notice was issued by the advocate informing the above facts to the respondents and for issuance of appropriate orders allowing the applicants to resume their duties. A copy of the Notice dated 30.9.89 addressed by the advocate of the applicants is annexed and marked as Annexure A-5 to this application. That the respondents did not even cared to reply the notice of the advocate nor they allowed the applicants to resume their duties. The applicants have thereafter made written representations to the respondents informing them that they are constrained to sit idle and not allowed to resume their duties by the respondents. The copies of the representations addressed by the applicants are annexed and marked as Annexure A-6 collectively to this application. That after all the sincere efforts of the applicants for the redressal of the grievances ~~were~~ were not yielded fruitful result and the applicants are not allowed to resume their duties nor they are paid their salaries since last more than 2 months. The applicants are having no alternate except to approach this Hon'ble Court by way of this application. Non allowing the participants for resuming their duties and not passing any further order is ex facie arbitrary, unconstitutional and amounts to termination of the services of the applicants without following the mandatory provisions of I.D. Act 1947 and is required to be quashed and set-a-side.

3. It is submitted that the respondents are under statutory obligation to allow the applicants to resume their duties and if in case there is no work available, they may immediately issue the appropriate order directing the applicants to report to the higher authorities. Here the respondents did not care to take notice of the presence of the applicants and the applicants are deprived of their livelihood without following any due procedure of law. It is submitted that the applicants are entitled for the benefits of temporary status and regularisation as per the judgement of the Hon. Supreme Court in Indrapal Case. That to implement the said judgement the respondents have passed orders on paper giving the temporary status to the applicants with effect from 1.1.83 but till date the applicants are not granted the benefits of temporary status i.e. the arrears of salary etc. That the applicants are entitled to get transfer allowances for their transfer too but respondents have not paid any transfer allowances or granted any joining time to the applicants for their transfer to Fulera again from Fulera to Bhavanagar, Bhavanagar to Botad and Botad to Bheemnath. The Condition of services of the applicants are miserable and at the mercy of the respondent officers. That after the judgement of the Hon'ble Supreme Court and the case have reached to the apex Court of the country, so far the Bhavanagar division is concerned the service condition of Casual labourers are very miserable. The respondent authorities are adopting unfair tactics and ignoring the claim of the seniormost employees like applicants, regularise the services of the juniormost employees in the division. That thus selections are challenged by the Union before this Hon'ble Tribunal and the petitions are admitted and pending for final hearing.

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4. It is submitted that the applicants are entitled for the benefits of temporary status after their completion of 180 days of services as per the provisions of Railway Establishment Manual. Further the applicants are entitled to be regularised as a permanent employee in light of the judgement of the Hon'ble Supreme Court in the Indrapal Case. That the respondents have not following the directions of the Hon. Supreme Court and that is one of the grievances in this application by the applicants. That the respondents have till date not prepared the combined divisional seniority list of the labourers working in the Bhavanagar Division. And the vacant available posts are filled up only from the labourers working on the open line. That the Statement made by the Counsel appearing before the Hon'ble Supreme Court on behalf of the Railway administration in Ramkumar case has categorically said that so far the regularisation is concerned the labourers of the open line and project are treated equally and as per their combined divisional seniority. That in that case also the Hon'ble Supreme Court has observed that in future if cases about the non implementation of our directions comes to the Court of Law then the administration should be blamed.

5. The action on the part of the respondents non-allowing the respondents to resume their duties amounts to termination of services without following the mandatory provisions of Section 25 F, r.w. Section 25 G, B and relevant rules of the Industrial Dispute Act 1947. The action of the respondent non allowing the applicants to resume their duties is ex facie bad in law and is required to be quashed and set-a-side.

That the balance of convenience is in favour of the applicants as there is no fault on the part of the applicants, for which they are not allowed to resume their duties. If there is any communication or other administrative reasons then it is the duty of the respondents to show it and issue appropriate order to the applicants. Here the respondents have failed to perform their statutory duties and the poor casual labourers are not paid the salary since last 2 months. That the applicants are having a strong *prima facie* case and therefore the interim relief is required to be granted.

VII. Relief Sought for:-

In the abovementioned facts and circumstances of the case, the applicants pray that:-

- (A) The Hon'ble Tribunal be pleased to declare the impugned ~~order~~ action of the respondents non allowing the respondents to resume their duties or giving any further order with effect from 24.9.89 and non-payment of the wages to the applicants since then is arbitrary, illegal and unconstitutional and be pleased to quash and set-aside it and direct the respondents to reinstate the applicants with continuity of services and consequential benefits.
- (B) Be pleased to declare the action on the part of the respondent no.2 non-allowing the applicants to resume their duties as illegal termination of services of the applicants and be pleased to quash and set-a-side and direct the respondent to reinstate the applicants with full backwages and continuity of services.
- (C) Be pleased to direct the respondents to pay the transfer allowances to the applicants for their transfer from Bhavanagar to Fulera, from Fulera to Bhavanagar and

Bhavanagar to Botad as mentioned in the memo of the petition with 12% interest.

(D) Any other relief on which this Hon'ble Tribunal deems fit and proper in the interest of justice.

VIII Interim Relief:

(A) Pending admission and final disposal of this application be pleased to direct the respondents 2 to 3 to allow the applicants to resume their duites and to pay the arrears of wages to the applicants from the month of September '89 and continue to pay regularly.

(B) Be pleased to direct the respondents to pay the arrears of temporary status as per the directions of the Supreme Court and Travelling allowance for the abovementioned transfer with immediate effect.

(C) Any other relief to which this Hon. Tribunal deems fit and proper in the interest of justice.

XI The applicant have no other alternative efficacious remedy available except to approach this Hon. Tribunal

X The applicants declare that the matter regarding which this application has been made is not pending before any other Court of law including any other bench of the Tribunal or Hon. Supreme Court of India.

XI Details of postal Order:-

Postal Order No.: 22104270

Date: 28/11/89. 6

Issued by the Gujarat High Court Post Office,
Ahmedabad. amount of Rs.50/-

XII Details of index

An order in duplicate containing the details of the documents to be relief upon is enclosed.

XIII List of enclosure: As per index.

Date: 28/11/89.

PH Pathak
(P.H. Pathak)

Advocate for the applicants

(8)

VERIFICATION

I Shri, Karshan Daya, Hindu Adult residents of Botad, one of the applicant do hereby state that what is stated above in the application is true to best of my knowledge and I believe the same to be true. I have not suppressed any material facts from the Hon'ble Tribunal. The contentions of the application are explained to ~~in~~ me in Gujarati language by my advocate.

Date: 28/11/89

Ahmedabad

* 522101 517
* 21211211
* 3120711111
* 91301 21482011
* 213 212231
* 551712

clerk of
Mr. P. H. Pathak
Filed by Mr. P. H. Pathak
Learned Advocate for Petitioners
with second set & 2 copies
copy served/not served to
other side

Dy. Registrar C.A.T (J)
A'bad Bench

WESTERN RAILWAY

No. E 615/1/2

SEN(C)I's Office
Ahmedabad-2.

Dt. 14/21-7-1986

MEMORANDUM ::

To,

Shri K Hakka Meru

C/- CE(CN)ADI

alongwith list
of labour temp-
orarily trans-
ferred under
XEN(C)JP.

Designation : G'Men

SAO(C)ADI

Scale of Pay : 200-250(R)

XEN(C)JP

Secy. WRMS

(C)/ADI &

WREU(C)ADI

PWI(C)ADI

IOW(C)II SBI.

Through PWI (C)ADI

Sub : Temporer transfer of Labou~~ss~~/Labou~~ss~~ granted
Temp. status working on shahihag-Viramgam
(Balance) doubling Project.

Due to reduction of works on this Construction District, Labours strength of this unit is required to be reduced. Hence, you are hereby relieved on 25-7-86 (A/N) on temporary transfer under XEN(C)Jaipur in the interest of works. You have to Resume your duty under PWI(C) FL at sukhan

Transfer orders are issued for labours who have joined this unit on transfer from ~~other~~ other units and posted on works of SHB-VG(Balance) doubling and have now temporarily been transferred on the Principal of 'Last come first go.'

Since your transfer is ordered temporarily, no transfer allowance & joining time is granted.

Transfer Pass No. of 22.2.86 Ex. Jakhwada to Jaipur is enclosed.

Authority Dy. CE(HQ)ADI's Do No. E 615/1/ADI of 11.7.86.

XEN(C)I/ADI

Complete service particulars of above named :-

- (1) T.I.No. in case of labours on D/wages.
- (2) Name of employee : Shri Hakka Meru
- (3) Designation : G'men
- (4) Date of birth :
- (5) Date of appointment 23.3.1979
- (6) Date of graptting temp. status : 1.1.85
- (7) Scale and rat of pay : 200-250(R)
- (8) Last pay 203-00(R)

Date (087)
11/07/86
10-07

No. PWI/Sdc-FL/E/891/I

Dated 20/12/88

From : PWI/Sdc-FL

To, Sr. DEN- BVP

Sub : Transfer promotion, Reversion of class IVth casual staff

Ref : XEH/c JP memorandam No. JP/E/615/3 dt 5/12/88
S.rDEN BVO letter No. Sr. DEN/BVP/L of 31/10/88 to
fy CE/C/W/ADI

In reference of above cited aletter No. the following
class IVth staff labour's are here by relieveel by this office on
20/12/88 Ab gor resuming duty at yours.

Their paymark upto 20/12/88 charged by this office and
further will be chafged yours from 20/12/88

Their paymark particulars are counder.

No.	Name	Deng.	particulars	
1.	Shri Gordhan Keshu	G-men	823 + 189=Asper rule	RJT memoradum No-RJT/E/615/at 17.11.88
2.	Shri Rama Megha	"	823 + 189	" -do-
3.	Shri Ramesh Govind	"	823 + 189	" -do-
4.	Shri Devshi Khina	"	823 + 189	" -do-
5.	Shri Karsan Daya	"	823 + 189	" -do-
6.	Karu Bhanna	"	823 + 189	" -do-

P.F. No. (1) 1693417, (2)1693541, (3)163418, (4)1693604, (5)1693490,
(6) 1693420 Sr. DAP JP Respectively-

Pass PTO's of The above named employees due in 1988 are as under
Item No.5 Shri Karshan Daya one set of upper due in 1988 Reft. Itim
P/shri not dme 1988

Item NO. 1 &2 Three set of PTO's due in 1988

Item No.3,4,5,6 Fours sets of PTO's due to 1988

Their persehal file leave record & s/sheerun follow.

Copy to : XEN/C - JP | for information please.
AEN/C - JP |

True COPY
P. K. Bhattacharya

Western Railway

No. 8/891/7/13(T)

Divisional Office
Bhavanagar Para
Dt. 27-12-1988MEMORANDUM

To

PWI. BNH
C/- REN/BTDSub: Absorption of Surplus Project - Casual
labours - Engg. Deptt - BVP Divn. -

- Ref:- 1) PWI(C)Jam' letter No. PWI(C)JAM/8/1
dt. 24.12.88
2) PWI/S&C FL's letter No. PWI/S&C FL/E
891/1 dt. 22.12.88
3) PWI/S&C FL's letter No. PWI/S&C FL/E
891/1 dt. 22.12.88
4) IOW(C)BVP's letter No. BVP/E/615/88/1
dt. 23.12.88.

The following project casual labours having been
directed to this office for absorption on this ~~exist~~ division
are further directed to PWI. BNH for their engagement on
CTR Work at JIL.

<u>Sr. No.</u>	<u>Name</u>	<u>Designation</u>
1.	Shri Mohan Bhaskar	G/Man
2.	" Unikha Premji	"
3.	" Premji Raja	"
4.	" Ramji Magan	"
5.	" Hakka Maru	"
6.	" Jala Zina	"
7.	" Nanji Ramji	"
8.	Chandu Arjun	"
9.	" Gumsingh Bhikhubha	"
10.	" Kama Raja	"
11.	" Ramesh Pratan	"
12.	" Jillubha Radhav	"
13.	" Bhuda Mara	M.B.
14.	" Kanchan Vashram, FB	
15.	" Magan Machan	M.B.
16.	" Harshi Tanco	M.B.
17.	" Shankar	
	Bharat Chnagan	kh
18.	" Gardhan Kesa	G/Man
19.	" Khama Megha	"
20.	" Ramesh Govind	"
21.	" Karshan Daya	"
22.	" Karu Bhana	"
23.	" Devshi Khima	"

(2)

15
C2
Their personal file, leave records and S/sheet will follow, by PWI (C) JAM, PWI (S&C) FL and IOW(C) BVP. Their other particulars are enclosed herewith for necessary action.

Sd/-
for DRM(E) BVP

Encl:

Copy to: DMO/BVP - OS/SB - AEN/BTD - PWI. BNH - CC/SSR
Copy to PWI/(C)JAM/S&C FL He will please submit at once the complete records of the above named to AEN/BTD under advise to this office.

The pay of the persons at Sl. No. 1 to 8 and 17 has been drawn upto 25.12.88 by PWI (C) JAM.

The pay chart particulars have not been shown by PWI (S&C) FL for Sr. No. 4 to 8. He should advise at once upto which date their pay has been charged direct to WI/BMT, copy to AEN/BTD under advice to this office.

The pay of the persons at Sr. No. 9 to 18 has been charged upto 22.12.88 by WI (S&C)FL.
The pay of the persons at Sr. No. 13 to 16 has been charged upto 23.12.88 by IOW(C) BVP

DR/1
T. K. D.
M. B. P.
M. B. P.

The pay particulars as furnished by P+WI (C) JAM FL and IOW(C) BVT of the persons shown below are as under

Sr. No.	Name	Designation	Pay	D.A.	R.S.	P.F.A/C.	No.	Passes	PTCs due
---------	------	-------------	-----	------	------	----------	-----	--------	----------

— 1 — FROM

- 1 -

一一一

1.	Mohanan Bhaskar	G/Man	823/-	1.1.82	1818999	Nil	6 sets
2.	Premji Raju	"	823/-	-	-	"	6 "
3.	Bhikha premji	"	823/-	-	1.1.83	1815990	1 set
4.	Ramji Magan	"	825	182/-	1815898	1 "	6 "
5.	Hakka Maru	"	824/-	189/-	Not shown	Nil	4 "
6.	Jalla Zina	"	823/-	189/-	"	1 Set	4
7.	Nanji Khanji	"	823/-	189/-	"	Nil	4
8.	Chanda Arjan	"	823/-	189/-	"	Nil	4
9.	Gumansing Bhinkubha	"	835/-	192/-	"	Nil	4
10.	Rana Raju	"	823/-	189/-	1.1.84	"	4 "
11.	Ramesh Pratan	"	823/-	189/-	1.1.83	"	4 "
12.	Jillubha Raidhar	"	823/-	189/-	15.1.84	"	2 "
13.	Duda Mara	M.S.	822/-	-	1.1.83	Nil	4 "
14.	Smt. Kanchan Vashram	F.B.	822/-	-	1.1.83	Nil	4 "
15.	Magan Mohan	M.S.	823/-	-	1.1.83	1 Set	6 "
16.	Narshi Tanco	M.S.	822/-	-	1.1.83	1 set	6 "
17.	Bhunat Chhagan	kh.	822/-	-	1-1-83	Nil	6 "
18.	Karma Gardhan Keshu	G. Man	823/-	189/-	1816903	Nil	6 "
19.	Kema Megha	"	823/-	189/-	1.1.83	1693477	3 "
20.	Ramesh Govind	"	823/-	189/-	"	1693541	3 "
21.	Bevshi Khma	"	823/-	189/-	"	1693418	4 "
22.	Karshan Daya	"	823/-	189/-	"	1693604	4 "
23.	Karu Bhana	"	823/-	189/-	"	1693490	4 "
						16934260	7

Dec 10
At 9:00 AM
Bar

A3

67
CB

No. E/615

Dated 18.6.89

From PWI - BNH

To, AEN - DLJ

Sub : Casual labourers VOP

As per AEN-EBTD's instruction I am directing 18.6.89
of VOP casual labours to work under you.

Their payment has been drawn upto 20.6.89 and onward on your
jurisdiction payment as to be drawn at yours they are releved
on 29.6.89 A.N.

Their service pay deduction Para/PTOs leave etc particulars
is send herewith in statement

1.	Shri Mohan Bhaskar	MB	T.S.	Granted	scale	775-1025
2.	Shri Bilubha R.	"	"	"	"	"
3.	Shri Himatsinh Dosubha	"	"	"	"	"
4.	Shri Ramesh Prataji	"	"	"	"	"
5.	Shri Bhikha Premji	"	"	"	"	"
6.	Shri Diliji Shailji	"	"	-	-	750-940
7.	Shri Karsan Daya	"	"	"	"	775-1025
8.	Shri Prakashgigi P.	"	"	"	"	"
9.	Shri Duda Meru	"	"	"	"	"
10.	Shri Shamji Tapu	"	"	"	"	"
11.	Shri Hakka Meru	"	"	"	"	"
12.	Shri Chandu Arjan	"	"	"	"	"
13.	Shri Deveshi Khima	"	"	"	"	"
14.	Shri Jala Zina	"	"	"	"	"
15.	Shri Ramji Magan	"	"	"	"	"
16.	Shri Rama Megha	"	"	"	"	"
17.	Shri Smt. Kamar Magan FB	"	"	"	"	"
18.	Shri Kanchan Vasram FB	"	"	"	"	"

DA one statement

DEN I BVP Sv. DPO-BVP Copy to :

True copy
H. Bhakta
PWI

No. E/615/DLJ

Dated 22.9.1989

From : PWI - DLJ

To, PWI BNH

DEN(1) & BPO BVP

Sub : Casual labours V.O.P.

As per AEN - DLJ's instruction I am deacling
S/NB/FBI of VOP casual labour to work under you.

Thanks

Their payment has been drawn up to 20.9.89 and
onward on your jurisdiction payment is to be drawn at yours

They are received on 22.9.89 A.N. and their service
pay deduction pars / PTO leave etc particular is send here
with in statement

1. Jilubha R	MB	T.S.	Grated	Scale	775/1025
2. Karsan Daya	"	"	"	"	"
3. Ruda Meru	" "	"	"	"	"
4. Shamtlai Tapu	"	"	"	"	"
5. Rana Megha	"	"	"	"	"
6. Chandu Arjan	"	"	"	"	"
7. Devshi Khima	"	"	"	"	"
8. Delip Shelji	"	"	"	"	750/940

Dec 89
P.H.
Hai

Date : 30.9.89

To,

1. The Asst. Engineer (WR)
Railway Station
Botad.
2. Divisional Railway Manager (WR)
Bhavanagar Para
Bhavanagar.

Under the instructions of my clients Shri Kareshan Daya, Rama Megha, Devsi Khima, Haka Meru, Chandu Arjan & Jilubha R. who are the casual labourers and working at present under you i.e. No.1, I the undersigned advocate inform you by this notice as under :

That my clients have joined the services of the Railway as casual labourers in 1979 and are seniormost awaiting regularisation as per the judgement of the Hon'ble Supreme Court of India. That my clients were given temporary status with effect from 1.1.88 but the arrears of the benefits of temporary status is still not paid to my clients. That my clients were sent on temporary transfer to Jaipur Division in the year 1986 and were directed back to DEN Bhavnagar. That from Bhavnagar my clients were transferred to PWI Bhimnath on 27.12.88. That my clients were working under the PWI Bhimnath but again from Bhimnath they were transferred to PWI Dholka from 18.6.89. That after about 3 months my clients are shunted back to Bhimnath to Dholka i.e. on 22.9.89. That on the next day my clients are reported to the PWI Bhimnath for resuming their duties.

I would like to draw your attention that during the above transfers my clients are entitled to get the transfer and packing allowances and payment of joining time as per the provisions of Railway Establishment Manual but you have not paid till date the amount of transfer allowances and joining time. That on the next day i.e. 29.9.89 at about 9 P.M. PWI Bhimnath Mr. Rao even on request of my clients, not informed them about their posting orders for joining duties. That immediately my clients have approached you i.e. No. 1 Asst. Engineer, Botad and requested to give posting orders and to allow them to resume their duties. That you No.1 has informed my clients that as you have to obtain further orders from the Division office my clients were informed to meet you again on 28.9.89. Since 23rd my clients are reporting every day for resuming duties to the PWI Bhimnath. That on 28.9.89 the day on which you have called my client for posting orders, my clients have reported in the early morning to your bungalow and requested for posting order but you have said that as you have to go for some meeting and therefore you have no time and my clients may wait for further instructions upto 3rd October 1989. On again reporting to PWI on 29th after your departure, PWI Bhimnath has directed my clients to put their thumb impression on blank papers and only thereafter he was agreed to allow my clients ~~not~~ to resume their duties. My clients have requested that to know why their thumb impression are obtained on blank paper but the PWI has interms stated that it is administrative work and my clients have to put their thumb impression.

20

In these circumstances I would like to know from you powers and authority the PWI is having for obtaining thumb impression of the casual labourers, who are illiterate, on blank paper? When your instructions are not such how he can act in such arbitrary manner? Why my clients are not allowed to resume their duties and force them to remain idle for a week? It is a waste of public exchequer money and therefore it with immediate effect on receipt of this notice you will not allow my clients to resume their duties, my clients shall be constrained to move further legal proceedings against you at your cost and risk.

Pay Rs. 15/- of the cost of this notice to my clients as is to be issued due to your non-allowing my clients to resume their duties.

Date : 30.9.89
Ahmedabad.

P. H. Pathak
(Advocate)

Dale 20/9
PH Pathak
Adv

Annex 6 (16)

કર્શન ડાયા

સીલાં બેશોશીયન બોક રેલ્વે બેંડ ૫૧૦૮

બેંટલોયાજ

બાલાપ ફ્લાટ્સ

મજાલ રિસેમા સામે,

વાસ્કુલ રોડ અમદાવાદ.

પ્રતિ શ્રી

ઓસીસ્ટન ટ્રાન્ઝિનીયર (બ.રો.)

રેલ્વે સ્ટેશન

બોટાદ.

વિભાગ : નોકરી ઉપર લેબા બાનત

જ્યુટ્ટિંગ સાથ જીવબાનું કે અમો નીચે સહિ કુસારું કુમ્ભારીઓ દરરોજ આપની બોકીને ટ્રાન્ઝિની ગોટ્ટા કર્બા આવીને છીએ. પરંતુ તમો કોઈ કામ કે પોઠીનું બોર્ડર આપતા નથી અમો તા. ૨૭૫૪૮૪થી કામ બિના જેસી રહીએ છીએ. તો તુસું જ અમોને પોસ્ટીનું બોર્ડર આપવા જાહેર જાની કરાયો.

દી.

આપના વિસ્તારું

કર્શન ડાયા

Tree 209
M. P. H. 1/2
P. D. V.

Hc
17

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O. A. No. 528 / 89

Karshan Daya & Others ... Applicants

Vs.

Union of India & Others ... Respondents

Respondent Railway Administration files its Written Statement as under :-

- 1) That the application is not according to law, and nottenable, being other wise defective.
- 2) That the Railway Administration does not admit the truth or correctness of any statement, allegation, Contention or suggestion setout in the application unless the truth or correctness of any one of them is specifically and expressly admitted in this reply.
- 3) That without prejudice to the above contention, the Railway Administration submits it's reply as under.
- 4) That the contents of Para 1 and II no remarks needed, being formal.
- 5) Contents of Para III is not correct and hence not admitted, In fact the applicants were allotted the work by parmanent way Inspector Bhimnath on 25/09/89, and were asked to go to work on site under his beat, but they have not carried his order, and did not go to the site of work and remain idle, at their own accord, Thus the contents of this para of the application is denied.
*R. m. V.
27/6/90*
- 6) That no remarks needed for contents of Para IV and V of the application, being formal.
- 7) That refarring to the contents of Para VI of the application, it is clarified that, applicants S/Shree Karshan Daya, Rama Megha, Devshi Khima, Haka Maru, Chandu Arjan, and Jilubha R, were originally engaged by VOP (Viramgam - Okha - Porbandar) Construction Organisation, and after complition of work they were directed to work on other division i.e to Jaipur

Contd. from P.No. 1
& Para No. 7.

1893

Division under Survey & Construction of Fulera. After completion of that, they were directed to work on Bhavnagar Division, and this Division has issued letter No. E/891/7/13/(T) dt 27/12/88 to work under Permanent Way Inspector Bhimnath. It is added here that out of the Six applicants only three applicants Viz Karshan Daya, Devshi Khima and Rama Megha, Sr No. 1, 3 and 2 are belonging to the seniority list of Bhavnagar Division, and their seniority is assigned at Sr No. 165, 164 and 158, as per the seniority list prepared by the Executive Engineer (Construction) Jamnagar, based on the working of total number of days of working, as per Hon'ble Supreme Courts Judgement & Instructions of Head Quarter office of Western Railway and accordingly 40 % of the vacancies to be kept reserved, and they will be called for Screening for regular absorption on this Division, as per their turn.

Where as S/Shree Haka Meru, Chandu Arjan and Jilubha R, They belongs to the Seniority list of Rajkot Division, and as such their absorption can be done in Rajkot Division only. Since they were unscreened Casual Labours, and their services are still not regularised, and the benifit of Transfer Allowances - Packing Allowances etc is not admissible to such Casual Labours, as per rules, their claim of the said allowances is not just, and not acceptable and hence denied.

- 8) That the Contents of Para VI (2) is not correct and hence denied. In this matter is clarified that , when the applicants reported on this Division, immediately on 27/12/88 vide No E/891/7/13/(T) they were directed to work under Permanent Way Inspector, Bhimnath.

After that, they were directed to work at Dhola from 20/06/89 and after being spared from Dhola they were

Contd. from P.No.2
& Para No.8.

directed vide No. E/615 of 22/9/89, and after availing their due rest on 23/09/89 they attended Permanent Way Inspector's office Bhinnath on 24/09/89

Accordingly PWI BNH vide No. E/615 of 24/09/89 issued a written order in favour of applicant to work under Mate of Gang No. 14, 16, and Loliya Gang, (True Copy of the same is annexed here to and marked 'R' 'R/1' and 'R/2') they refused to go to work on site, where work was available. The refusal of Casual Labours were reported by Permanent Way Inspector to the Asstt. Engineer Botad, Sr Divisional Personnel Officer and Divisional Engineer, Bhavnagar Para vide his letter of dt 24/09/89 and Telegrams vide ~~mix~~ No. E/615 of 24/09, 25/09 26/09 and 27/09/89 (Annexed here to the true copies of the same and marked

R/3, R/4, R/5 R/6 R/3, R/4, R/5, R/6 & R/7).

R/6, R/7

Even after that, Permanent Way Inspector Bhinnath has also served the notice to the applicant and ask them to attend their duties, only two persons named Shree Shantilal Tapu and Dilip Shamji came on work on 28/09/89. The copy of the said notice is Annexed here to and marked R/8). Thus all these facts leads to confirm that the applicants them selves remained absent from their duties though ordered specifically and as such, as per rules the principle of no work no Pay becomes applicable to them. Thus, the applicants, with the ulterior motives, fabricated the entire case, by way of mis representing it, for which, respondent Railway Administration, prays that, the present application may be rejected on the above facts and merits.

9. That referring to the contents of Para VI (3) It is clarified that, as stated in foregoing paras, the applicants

(20)
20/5

Contd. from P.No.3
& Para No. 9.

are not screened Employees and hence they cannot claims for the transfer/Packing Allowances etc. which is only admissible for the regularised employees. The allegation of ignoring Seniority of applicants and regularising the service of Juniors is totally baseless and fabricated.

Applicants may be asked to put the strict proof it Respondent Railway Administration is a Quari Judicial Organisation and has full respect to the Judiciary and never disobeyed the order of Judiciary.

- 10) That referring to the contents of Para VI (4) of the application further it is clarified that applicant No. 1. 3 and 2 are of the Seniority list of Bhavnagar Division and their Sr No. ~~is~~ in Seniority list is at 165, 164 and 158 and as per the framed policy they will be screened ~~is~~ and regularised in turn. Thus the allegation of non granting Temporary status, is baseless and far from truth.
- 11) That the allegation set-out in Para VI(5) of application is denied . In fact, applicants didnot obeyed the orders of PWI BNH to attend their duties and remain absent at their own accord. This matter is clarified in foregoing paras Annexing the true Copies of the Notice, Telegramms and letters. Thus the entire Case of applicants is baseless and fabricated and worth for rejection at intial stage-
- 12) That referring to the contents of Para VII (A, B, C, D and para VIII (A, B, C) It is Prayed that.

Since the applicants, are not regular Employees, and they have not carried out the order of PWI BNH to attend their duties, they do not deserves any relief as prayed by them but the applicants application may please be rejected awarding the cost to the Railway Administration.

Contd. from P.No.4.

81
SAC

- 13) That the contents of Para XI to XIII are formal and need no comments.
- 14) That the Railway Administration Craves leave to add, alter, amend or modify the contents of the reply as and when required in future.

Bhavnagar.

Date:- 25.6.90
25.6.90

On and behalf of Union of India.

H. N. Lal
Asst. Divisional Railway Manager,
Western Railway, Bhavnagar.

** VERIFICATION **

I H. N. Lal Asst. Divisional Railway Manager Western Railway Bhavnagar Para do hereby Solemnly affirms that what is stated above in para 1 to 14 are gathered from the official records & information and the same is believed to be true to the best of my Knowledge and belief.

25.6.90

H. N. Lal
Asst. Divisional Railway Manager
Western Railway, Bhavnagar Para.

6
Reply/Rejoinder written return
Filed by Mr. M. V. V. M.
Learned Advocate for Plaintiff
Respondent with service, see
Copy served/not served, etc.

On 27/6/90 C. Ghosh
Dy. Registrar
A'bad Regd.

(35) Anne 'R'

(Q.A.)

copy

st. 8/596

date 28-6-66

From - ~~Mr. S. G. S.~~ and
Common

To ~~Mr. S. G. S.~~ and
Common

Subject - ~~Mr. S. G. S.~~ and
Common

મારી પૂર્ણ ઇસ્ટેન્ચર કોર્પોરેશન નાના
સુન્દર સુધીની સાથે કાન્પાન્પાની કાન્પાની
નાનાની. તો ઇસ્ટેન્ચર નાનાની નાનાની
નાનાની.

(સંદેશ)

(1) નાનાની નાનાની

(2) નાનાની નાનાની

Mr. S. G. S.

નાનાની નાનાની

નાનાની નાનાની
નાનાની નાનાની
નાનાની નાનાની

Shri

(31)

Signature R/

(23)

ની એ સાનુ

Date 22-6-16

From - ના. સુલેખ અને અનુભૂતિ

To બેસિન પીપાન ના. ૭૫
સુલેખ અને

નીચે પ્રશ્નાની જવાબદિયો કરવી સાથે આ સિદ્ધ કરેલી. એનીએ જરૂર નથી કરી જવાબદિયો કરું. એ કોઈ કાર્યક્રમ નથી કરી જવાબદિયો કરું. એ કોઈ કાર્યક્રમ નથી કરી જવાબદિયો કરું.

(1) એ કિં નેણ

(2) એ કિં અનુભૂતિ

(3) એ કિં અનુભૂતિ

True copy (2) " ને આપુણ.

સાધારણ અધિકારી

સાધારણ રેલવે કોર્પસ
M. W. RLY. ROTAD

(23) —

ના. સુલેખ અને
અનુભૂતિ, અનુભૂતિ

(27)

(24)

સ્ટુડી

Annexure P/2

01/09/2021

Date 28-6-21

From - Mr. SURESH V. M.

To

અધ્યક્ષ પ્રીંચ કોલેજ

Mumbai

Subject - દાખિયાની કાંઈ કોણ

નોંધે પ્રચારણ દાખિયાની ગમણી ગેંગ સાથે
 કાંઈ કોઈ કોઈ કાંઈ કોઈ કોઈ કોઈ કોઈ કોઈ કોઈ
 કોઈ કોઈ કોઈ કોઈ કોઈ કોઈ કોઈ કોઈ કોઈ

(1) શ્રી એસી પ્રે

(2) " એન્નિયન્ડ રૂપ

દાખિયાની જીવની કાંઈ

નોંધ કરી કરી કરી

True copy

સાધારણ અધિકારી,
 પરિષદ રેલ્વે બોર્ડ,
 A.M. W. RLY. BOARD

(સ્ટુડી)

Mr. SURESH V. M.
 a. S. M., Mumbai

PWI-BNH

AEN-BTD c/b Sr.DPO, DEN(I)BVP.

24.9.89

Ambedkar RB
(21)

Refusal to work given to VCP labours who came from DLJ.

As per above following eight labours have arrived on 24.9.-89 by 291 up to BNH.

1. Shri.Jilubha.Raidharbha.
2. " Karsan.Day.
3. " Haka.Meru.
4. " Shantilal.Tapu.
5. " Rama.Megha.
6. " Devshi.Khima.
7. " Dilip Shelji.
8. " Chandu.Arjan.

They were told to work with gangs and respective memos and passes were prepared but they wanted to think.

At about 18.00 hrs. they were called for serving memos and passes but they refused to take the same and did not go to work an XR message is issued in this respect.

DA: 3 memos which
are not taken by
MB's

P.Way Inspector.
W.Rly.BHIMNATH.

True copy
20/9/89
Bharat Bhawan,
Bhavnagar 364 001
M. S. A. L. Y. BOTAD

Amherstview R/H

24

पश्चिम रेलवे WESTERN RAILWAY

तार फॉर्म Telegram Form

टो 76 बो/ग्रार 4 T 76 B/R4

26

श्रेणी Class	XR	कट समय Code Time	18.15	दिनांक Date	24.9.89	जिम्मेवाला अधिकारी Service Instructions	सदाशम तार घर Telegraph office of origin
प्राप्त Recd.	सं. No.	भेजा Sent at	सं. No.	E/615		देव प्रभार Charges due	
कहाँ से From		किसे To				शब्द Words	रकम Amount
किसने By		किसने By					कार्यालय सोहर Stamp of Office

NETS 51/06/117/0: 7.85: 156000x200

भेजने वाले द्वारा इस पंक्ति के ऊपर श्रेणी और विभागीय अनुदेश के सिवाय कुछ न लिखा जाए ।
Nothing to be written by the sender above this line except class Prefix and Service Instructions.

सेवा में To Sr.DEN-BVP, DPO-BVP c/- DEN(I)BVP, DRM(E)BVP, AEN-BTD,

Eight labours diverted from DLJ refused to go on work given to them @@ officers GENER @@

संसाधन अधिकारी,
संसाधन अधिकारी,
संसाधन अधिकारी,
संसाधन अधिकारी,

(इस संदेश को आगे पहुँच मार्ग पर लिखें Carry forward this message on reverse)

PWI-BMH.

हस्ताक्षर Signature..... पता (शुल्क दस्तावेज के प्रकारण में)
..... Address (for paid messages)

पदनाम (विभागीय तार के प्रकरण में)

तार से भेजने के लिए नहीं Not to be Telegraphed Designation (for service messages)

पश्चिम रेलवे WESTERN RAILWAY

Moneyorder R/S

तार फॉर्म Telegram Form

ट्रॉ 76 बी/पार 4 T 76 B/R 87

श्रेणी Class	कट समय Code Time	दिनांक Date	विभागीय अनुदेश Service Instructions	उद्यम तार घर Telegraph office of origin		
XR		25.9.89	Service Instructions			
प्राप्त Recd.	सं. No.	मेज़ Sent at	सं. No.	E/615/VOP	देय प्रभार Charges due	
किसने By		किसने By				

प्राप्त Recd. 31/08/117/01; 7.85; 1,56,000×200.

मेज़ने वाले द्वारा इस पंक्ति के ऊपर श्रेणी और विभागीय अनुदेश के सिवाय कुछ न लिखा जाए।

Nothing to be written by the sender above this line except class Prefix and Service Instructions.

सेवा में To Sr.DEN-BVP, DPO-BVP c/- AEN-BTD, DEN(I)BVP, DRM(E)BVP.

Refer this office wire no. E/615 of 24.9.89 @@ eight
MBS directed from DLJ did not turn up on work to day

-~~दायित्व~~ also @@

True copy
Signature

(इस संदेश को आगे पूछ साग पर लिखें Carry forward this message on reverse)

कार्यालय
पश्चिम रेलवे
प्रभारी
W. RLY. MOTAD
PWI-BNH.

हस्ताक्षर Signature..... पता (शुल्क दस तार के प्रकरण में).....

Address (for paid messages)

पदनाम (विभागीय तार के प्रकरण में)

तार से मेज़ने के लिए नहीं Not to be Telephered Designation (for service messages)

वर्तित रेलवे WESTERN RAILWAY

लाइन फॉर्म Telegram Form

ट्रैम 76 बी/प्रार 4 T 76 B/R

frame P/6

16

28

श्रेणी Class	कृत समय Code Time	दिनांक Date	विभागीय अनुदेश Service Instructions	उद्योग तार घर Telegraph office of origin	
XR	19.30	26.9.89			
				देग प्रभार Charges due	
प्राप्त Recd.	सं. No.	मेज Sent at	सं. No.	प्राप्त Words	रकम Amount
कहाँ से From		किसे To			
किसने By		किसने By			

1.56,000×200, 7.85; 1170; 5/10/1170; 7.85;

मेजने वाले हारा इस पक्षि के ऊपर श्रेणी और विभागीय अनुदेश के सिवाय कुछ न लिखा जाए ।
Nothing to be written by the sender above this line except class Prefix and Service Instructions.

सेवा में To

Sr.DEN-BVP, DPO-BVP c/- AEN-BVD, DEN(I)BVP.

Refer this office wire no. E/615 of 24 and 25.9.90 @@@
eight MBS directed from DLJ did not turnup on work
to day also-. @@@

Temp copy

(इस संदेश को आगे पृष्ठ भाग पर लिखें Carry forward this message on reverse)

प्राप्त From

So
PBI-BNH.हस्ताक्षर Signature..... पता (शुल्क दस्त तार के प्रकरण में).....
Address (for paid messages)

पदनाम (विभागीय तार के प्रकरण में).....

पदनाम तार के प्रकरण में के लिए नहीं Not to be Telephered Designation (for service messages)

संसाधन अधिकारी
परिवहन विभाग
AEN. W. RLY. NOTAD

पश्चिम रेलवे WESTERN RAILWAY

तार फॉर्म Telegram Form

12

टो 76 बैंग/ग्राह 4 T 76 B/R

35
29

श्रेणी Class	XR	कट समय Code Time	21.50	दिनांक Date	24.9.89	विभागीय ग्रन्तदेश Service Instructions	उद्यम तार घर Telegraph office of origin
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प्राप्त Recd.	सं. No.	मेज़ा Sent at	सं. No.	27-9-89	देय प्रभार Charges due
कहाँ से From		किसे To			शब्द Words
किसने By		किसने By			रकम Amount
					कार्यालय मोहर Stamp of Office

MS. 5/117/01 7-85 156/000X200

मेज़ने वाले द्वारा इस पंक्ति के ऊपर श्रेणी और विभागीय ग्रन्तदेश के सिवाय कुछ न लिखा जाए।

Nothing to be written by the sender above this line except class Prefix and Service Instructions.

कहाँ में To Sr.DEN -BVP, DPO-BVP c/- DEN(I) BVP, BRM(E) BVP, AEN-BTD.

Refer this office wireno. E/615 of 24.9.89 @@ Eight
 MBS directed from DLJ did not turn up on work to day @@

True copy

(इस संदेश को आगे पूछ मार्ग पर लिखें Carry forward this message on reverse)

संदेश द्वारा देय
पश्चिम रेलवे बोर्ड
W. RAILWAY BOARD

PWI-BNH.

हस्ताक्षर Signature..... पता (शुल्क दस्तावेज के प्रकरण में).....
Address (for paid messages)

पदनाम (विभागीय तार के प्रकरण में)

पदनाम (विभागीय तार के प्रकरण में) Not to be Telephered Designation (for service messages)

(4)

30

NOTICE.

Annexure R/S

The following casual labours of PWI-BNH unit are hereby informed to resume their duties immediately.

1. Shri.Jilubha.Raidharbha.
2. " Karson Daya.
3. " Kaka.Meru.
4. " Rama.Megha.
5. " Chandu.Arjan.
6. " Devshi.Khima.

The above employes are absconding since from 25.9.89.

True copy
SD. P.W.I.
25.9.89.
Notice Board.
W.Rly. BHIMNATH.

sd/- P.Way Inspector.
W.Rly. BHIMNATH.

Copy to:- DRM-E-BVP, DEN-I-BVP, AEN-BTD,
DinSecy. of WRMS/WREU-BVP

Notice board of PWI-BNH, Branch Secy.WRMS/WREU-ALAU-GG-Br-
anch.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. No. 528 OF 1989

Karshan Daya & ors.

.. applicants

vs

Union of India & ors.

...respondents

REJOINDER

1. I, Shri Karshan Daya, one of the applicant has gone through the reply filed by the respondents and am conversant with the facts of the case and I say that contentions and submissions of the reply are far from truth and are denied by me. I deny all the contentions and submissions of the reply except those which are specifically admitted by me in the rejoinder.
 2. With reference to para 5 to 7 of the reply, I say that it is not true that the applicants were allotted the work by Permanent Way Inspector, Bhavnath on 25.9.89. It is also not true that the applicants were directed to go on site and the applicants have not carried out the order. It is not true that the applicants have not gone on site and remained idle at their own accord. I reiterate and rely what I have stated in my application. The contention of respondents about seniority of Bhavnagar Division etc. are misconceived. There is no question of preparation of seniority list by Executive Engineer, Jamnagar. The respondent has made very vague statement that the applicants will be regularised as per their own turn. I called upon the respondents to produce the combined divisional seniority list if any prepared by the respondents where the name of Construction Project labourers as well as Open Line labourers are combined together. It is not true

that Transfer and Packing Allowance etc. are not admissible to the casual labourer, which is a false statement. That on completion of 120 days, the casual labourer get temporary status and thereafter he is entitled to get all the benefits available to the Temporary Railway servant.

3. With reference to para 8 of the reply, it is not true that when the applicants have reported to their division immediately the order was passed to work under PWI, Bhimnath. I have produced the relevant documents with my application. I called upon the respondents to produce all the letters on which they rely in support of their contention about transfer and posting of the applicants. It is not true that Permanent Way Inspector, Bhimnath has issued the order in favour of the applicants to work in Gang N. 14, 16 & Loliya Gang. It is not true that the applicants have refused to go on to work on site. I do not admit the correctness of the contents of Annex. 'R' to R/6. I say that the respondents were aware about the address etc. from the communication made on behalf of the applicants. That no order or letter was addressed to the applicants. It is not true that the Permanent Way Inspector, Bhimnath has issued the order to the applicants. These all documents are after thought and concocted by the respondents. It is not true that the applicants have remained absent from duty. The contention of respondent that the principle of no work no pay apply in the present case is misconceived. That the deduction of salary of the applicants on the ground of absent is misconduct and no penalty can be imposed

without following the due procedure of law. The respondents have taken the law in their hands and unilaterally come to the conclusion about proof of the misconduct which is in flagrant violation of principle of natural justice. It is not true that the present application is with ulterior motive and the facts are fabricated.

4. With reference to para 9 & 10 of the reply, I reiterate and rely what I have stated in my application para 6.3 & 6.4 and say that the contention of respondents about Transfer and Packing Allowance available to the regular employee is misconceived. Such practice amounts to unfair labour practice and it is ill in the mouth of the respondents being the State authority to say that after service of 10-15 years the applicant employees are not entitled the benefits available to the regular employee of Railway. I reiterate that our juniors are regularised and therefore I have called upon the respondents to produce the divisional combined seniority list.

The respondents are in misconception about their administration saying that is a quasi-judicial organisation. The respondents have not produced the seniority list intentionally, from which the applicants will be able to prove their case more effectively and therefore the adverse inference is required to be drawn against the respondents.

5. With reference to para 11 to 14, I reiterate and rely what I have stated in my application para 6.5 and prayer clause. It is not true that the applicants have not obeyed the order of Permanent Way Inspector, Bhimnath to attend their duty. It is also not true that the applicants have remained absent at their own accord. So far the absenteeism is concerned, the same is required to be proved by the employer as held by the various judgements by the Hon'ble Tribunal, relying upon the Supreme Court's judgement that the employer

should send a notice to the concerned employees if he intend to take shelter of plea of absenteism. Admittedly in the present case, no letter was addressed or served to the applicants nor any communication is pointed out by the respondents which is served to the applicant employees. Therefore it is a clear case of malafide and arbitrary exercise of power by the respondents. That due to communication gap between them, ~~and~~ therefore the applicants should not be made sufferer for their cause and the application is required to be allowed with cost.

Date : 11/2/95

Ahmedabad

(P. H. Pathak)

Advocate for the applicants

VERIFICATION

I, Shri Karshan Daya, one of the applicant, residence of Botad, do hereby verify that what is stated above is true to my personal knowledge and I believe the same to be true and that I have suppressed any material facts.

Date : 11/2/92

Ahmedabad

Shri Karshan Daya