

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(11)

O.A. NO.

528 Of 1989

T.A. NO.DATE OF DECISION 09-3-95Shri 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 ?

Yes

CENTRAL ADMINISTRATIVE TRIBUNAL

AMERICA - BEACH

0.1.20.
T.1.20.

ATE OF DECISION

Petitioner

Advocate for the Petitioner (s)

us

Respondent

Advocate for the Respondent (s)

CORAM

The Honorable Mr.

The Honorable Mr.

MENT

1. Whether the Respondent of a party may be shown to be a Respondent?
2. Whether the Respondent is a party to the Respondent?
3. Whether the Respondent is a party to the Respondent?
4. Whether the Respondent is a party to the Respondent?

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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.

Applicants

(Advocate: 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,
Bhimnath, Dhandhuka,
Ahmedabad.

Respondents.

(Advocate: Mr.R.M.Vin)

JUDGEMENT

O.A.NO.528 of 89.

Date: 09-3-95

Per: Hon'ble Mr. V.Radhakrishnan: 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,

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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 Dhola Annexure A-3. They were working under the Assistant Engineer Dhola 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

Pathak

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,

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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

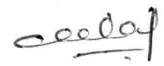
CERTIFICATE

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 :


Section Officer


Signature of the Dealing
Assistant

INDEX - SHEET

NAME OF THE PARTIES Mr. Kaeson Daya & Co.

U. O. I. & O. I.

[illegible]

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
AHMEDABAD BENCH, AT AHMEDABAD.

ORIGINAL APPLICATION NO. 528 OF 1989.

Between :-

Applicant : *Shri Kanchan Daga & Others.*

Versus

Respondents : The Union of India & Others.

Application under Rule 3 of the
Administrative Tribunals Rules.

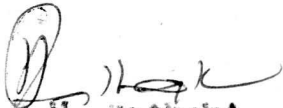
MAY IT BE PLEASED YOUR HONOUR :

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.

That in the above mentioned 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


(P. H. Pathak)

Advocate for the Applicants

57/555/89
29/11. (9)

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 Colly.	Copies of the representations addressed by the applicants	21

2x

Ahmedabad

Date:

(P.H. Pathak)

Advocate for the Applicants

COPY SERVED
MR. P. H. PATHAK
DEPUTY
MR. H. N. ADVOCATE
FOR RESPONDENT NO. 1
WAVES COPY FOR
EXP. NO. 1
ND 1942
6

P.H.
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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. ~~There~~ 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

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their parent division. Relying on their words in good faith the applicants have ~~accepted~~ 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 knowingly well that it a long term transfer but with a view to deprive the applicants of the transfer allowance and packing allowances ~~as well as~~ 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~~ 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 Dhola. 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 Dhola upto 22.9.89 and again the PWI, Dhola 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 Dhola 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 exfacie 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 adressed 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 not~~ 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 exfacie 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 ~~tax~~ 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 duties 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.: 22 (44270

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

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VERIFICATION

I Shri, Karshan Day a, Hindu Adult residents of Botad,
one of the applicnt 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

* Identified by me
JH Pathak
AOW

*
* સરકારી સિદ્ધિ
* રાજીવરાવ
* દેવદાસ મિલ
* જયમ. રા. રા. રા.
* રા. રા. રા.
* રા. રા. રા.

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

C. J. J.
Dt. 29/11/89 Dy. Registrar C.A.T (I)
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 X Hakka Meru

Designation : GMen

Scale of Pay : 200-250(R)

Through PWI (C)ADI

C/- CE(CN)ADI
SAO (C)ADI
XEN(C)JP
Secy. WRMS
(C)/ADI &
WREU(C)ADI
PWI (C)ADI
IOW(C)II SBI.

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

Sub : Temporer transfer of Laboures/Laboures 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 sukan

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 transferrd
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 grapting temp.status : 1.1.85
- (7) Scale and rat of pay : 200-250(R)
- (8) Last pay 203-00(R)

T Date (007)
11/10/1986
12-01

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 a letter No. the following class IVth staff labour's are here by relieve by this office on 20/12/88 Ab gor resuming duty at yours.

Their pay ~~mark~~ upto 20/12/88 charged by this office and further will be charged yours from 20/12/88

Their pay ~~mark~~ particulars are counder.

No.	Name	Deng.	particulars	
1.	Shri Gordhan Keshu	G/men	823 + 189 = As per rule	RJT memoradtm No-RJT/E/615/dt 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 Karshan 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 apper due in 1988 Reft. Itim
P/shri not due 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/shes/run follow.

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

True copy
H. H. H. H.

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 ~~work~~ 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.	" Gumansingh 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.	" Sardhar Bharat Chnagan	kh
18.	" Gardhan Kesa	G/Man
19.	" Khama Megha	"
20.	" Ramesh Govind	"
21.	" Karshan Daya	"
22.	" Karu Bhana	"
23.	" Devshi Khima	"

15
(2)

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: DM/D/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

True copy
original
per

12/6

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

Sr. No.	Name S/Shri	Designation	Pay	D.A.	F.S. granted from	P.F.A/c. No.	Passes	PTCs due	/SL
1.	Mohanam Bhaskar	G/Man	823/-	-	1.1.82	1818999	Nil	6 sets	73
2.	Premji Raju	"	823/-	-	1.1.83	1815990	1 set	6 "	9
3.	Bhikha Premji	"	823/-	-	"	1815898	1 "	6 "	147
4.	Ramji Magan	"	825	182/-	"	Not shown	Nil	4 "	-
5.	Hakka Maru	"	824/-	189/-	"	"	1 Set	4 "	-
6.	Jalla Zina	"	823/-	189/-	"	"	Nil	4 "	-
7.	Manji Khanji	"	823/-	189/-	"	"	Nil	4 "	-
8.	Chanda Arjan	"	823/-	189/-	"	"	Nil	4 "	-
9.	Gumansing Bhinkubha	"	835/-	192/-	"	"	1 Set	4 "	-
10.	Rana Raju	"	823/-	189/-	1.1.84	"	Nil	4 "	-
11.	Ramesh Pratan	"	823/-	189/-	1.1.83	"	1 set	4 "	-
12.	Jillubha Raidhar	"	823/-	189/-	15.1.84	"	Nil	2 "	-
13.	Duda Mara	M.S.	822/-	-	1-1-83	1774156	Nil	6 "	-
14.	Smt. Kanchan Vashram	F.B.	822/-	-	1.1.83	1774207	Nil	6 "	-
15.	Magan Mohan	M.S.	823/-	-	1.1.83	1774266	1 Set	6 "	-
16.	Narshi Tanco	M.S.	822/-	-	1.1.83	1816903	1 set	6 "	-
17.	Bhurat Chhagan	kh.	822/-	-	1-1-83	1816903	1 set	6 "	-
18.	Bhura Gardhan Keshu	G. Man	823/-	189/-	1.1.83	1693477	Nil	3 "	-
19.	Kema Megha	"	823/-	189/-	"	1693541	"	3 "	-
20.	Ramesh Govind	"	823/-	189/-	"	1693418	"	4 "	-
21.	Bevshi Khima	"	823/-	189/-	"	1693604	"	4 "	-
22.	Karshan Daya	"	823/-	189/-	"	1693490	"	4 "	-
23.	Karu Bhana	"	823/-	189/-	"	1693420	"	4 "	-

True Copy
P.H. Bhat
for

No. E/615

Dated 18.6.89

From PWI - BNH

To, AEN - DLJ

Sub : Casual labourers VOP

As per AEN-~~BT~~TD'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 Dosubna	"	"	"	"	"
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 Shamtji Tapu	"	"	"	"	"
11. Shri Hakka Meru	"	"	"	"	"
12. Shri Chandu Arjan	"	"	"	"	"
13. Shri Devshi Khima	"	"	"	"	"
14. Shri Jala Zina	"	"	"	"	"
15. Shri Ramji Magan	"	"	"	"	"
16. Shri Rama Megha	"	"	"	"	"
17. Shri Smt. Kamar Magan FB	"	"	"	"	"
18. " Kanchan Vasram FB	"	"	"	"	"

DA one statement

DEN I BVP Sv. DPO-BVP Copy to :

True copy
H. H. H.
per-

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 directing
8/NB/FBI of VOP casual labour to work under you.

~~There~~

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. Shamlal Tapu	"	"	" "
5. Rana Megha	"	"	" "
6. Chandu Arjan	"	"	" "
7. Devshi Khima	"	"	" "
8. Delip Shelji	"	"	" 750/940

True copy
P. H. Kulkarni
Hod

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 seniormist 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 Dhola from 18.6.89. That after about 3 months my clients are shunted back to Bhimnath to Dhola 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 ~~that~~ 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 thump impression of the casual labourers, who are illeterate, on blank papper ? 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 wastafe of public exchaquer money and therefore it with immediate effect on receipt of this notice you will not allow my clients to resume their duties, my cl ents shall be constrained to move further legal proceedings against you at your cost and risk.

Pay Rs. 151/- 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)

True COPY
P.H. Pathak
Adv.

Annex A 6 (16)
21

કરશન ડાયા

સી/ઓ મેશોરીયન ઓફ રેલ્વે એન્ડ પોસ્ટ

એમ્પ્લોયજ

આલાપ ફેલ્ટસ

અજલિ સિનેમા સામે,

વાસણ રોડ અમદાવાદ.

પ્રતિ શ્રી

આસીસ્ટન્ટ ઈન્જીનીયર (વે.રે.)

રેલ્વે સ્ટેશન

બોટાદ.

વિષય : નોકરી ઉપર લેવા બાબત

જયહિન્દ સાથે જણાવવાનું કે અમો નીચે સહિ કરનાર ૬ કર્મચારીઓ દરરોજ
આપની ઓફીસે ઠબુટી જોઈ-ટ કરવા આવીએ છીએ. પરંતુ તમો કોઈ કામ કે
પોસ્ટીંગ ઓર્ડર આપતા નથી અમો તા. ૨૪/૭/૮૯થી કામ વિના બેસી રહીએ
છીએ. તો તુરંત જ અમોને પોસ્ટીંગ ઓર્ડર આપવા જાહેર બાબત કરાવો.

હી.

આપના વિસ્વાસુ

કરશન ડાયા

True copy
H. H. H. H.
H. H. H.

H/c

98
(17)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O. A. No. 528 / 98.89

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 alloted 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.
- 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 (Virangam - Okha - Porbandar) Construction Organisation, and after complition of work they were directed to work on other division i.e to Jaipur

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 benefit 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

99/24

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 Bhimnath 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 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/7).

R, R/1 R/2

R/3 R/4 R/5 R/6
R/7 R/17

Even after that, Permanent Way Inspector Bhimnath 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 themselves 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.

R/8

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

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. ~~12~~ in Seniority list is at 165, 164 and 158 and as per the framed policy they will be screened 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.

21/46

Contd. from P.No.4.

- 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: 20.6.90
25.6.90

On and behalf of Union of India.

H. N. Lal
~~Adm.~~ Divisional Railway Manager,
Western Railway, Bhavnagar.

** VERIFICATION **

K I H. N. Lal ~~Adm.~~ 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
~~Adm.~~ Divisional Railway Manager
Western Railway, Bhavnagar Para.

6

Copy/Reminder written
Filed by M. N. V. M.
learned advocate for
Respondent with second
Copy served/not served
Dt. 27/6/90 Dy. Registrar
A'bad Bldg.

સુધા

(31)

Signature R/1

(23)

જાંઈ ૩૧૫

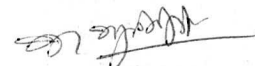
Date 28-6-66

From - મો. સોલેજી અને બાબતો To બાદશાહી ગોળાં ૧૬
દરિયા ભાગ

મીરો બુલબુલ ઘડી આપોને તમારી ગોળાં સાથે કામો લઈ
લેશો. દરબાર અમારે તમારી ગોળાંમાં આપશે. આ ભોમોની
દાખરીની રોપડી તમોને બાદશાહી પગાર વચ્ચે તમોની
આપવામાં આશે.

- (૧) શ્રી રામ મેદા
- (૨) " રાંછુ અરબા
- (૩) " દેવશી ખામ
- (૪) " દિલાખ શેલજી.

True copy



સહાયક અધિકારી,
વહીવટી રેલવે, મેટ્રો.
W. RLY, BOTAD

(સહી) —

મો. સોલેજી અને
વે. રેલવે, બાબતો

(27)

(24)

સાચી

Signature P/2

નં ૬/૬૧૫

Date ૨૪-૬-૮૬

From - Mr. Sachu and
Chhanna

To મુકદમ ગેંગ નં લેલીયા

Subj: દાકીયાઓને કામે લેવા બાબત

ગીચે મુજબના દાકીયાઓને તમારી ગેંગ સાથે
કામે લઈ લેશો અને દબોચાર કાનૂને તમારી ગેંગમાં
આપશો

(૧) શ્રી દેવ મેડુ

(૨) " શાંતિલાલ રૂપુ

દાકીયાની સેવકી બમોરે

પગમર વખતે આપા દેથું.

True copy

સહાયક અધિકારી.

વલિયન રેવરે. પોસ્ટાલ.

ARM. W. RLY, BOTAL

(મુદ્રા)

Mr. Sachu and
Chhanna

PWI-BNH

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

24.9.89

⑤
Inmedate R/B

21

Refusal to work given to VOP 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.Daya.
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

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

True copy

W.Rly.BHIMNATH.

W. RLY, NOTAD

Amertwice Rk

(24)

26

पश्चिम रेलवे WESTERN RAILWAY

तार फॉर्म Telegram Form

टी 76 बी/ग्रा 4 T 76 B/R

श्रेणी कूट समय दिनांक विभागीय अनुदेश उद्गम तार घर
 Class XR Code Time 18.15 Date 24.9.89 Service Instructions Telegraph office of origin

प्राप्त Recd.		सं. No.	भेजा Sent at	सं. No.	देय प्रभार Charges due	कार्यालय मोहर Stamp of Office
कहाँ से From					शब्द Words	
किसने By					रकम Amount	
				E/615		

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 @@@

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

PWI-ENH.

हस्ताक्षर Signature.....

पता (शुल्क दत्त तार के प्रकरण 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)

15X. 51/06/17/01, 7-85; 1,56,000x200.

सहायक अभियन्ता,
 पश्चिम रेलवे बोर्ड,
 प्रेषक
 W. K. J. BOTAD

पश्चिम रेलवे WESTERN RAILWAY

तार फार्म Telegram Form

टो 76 बी/आर 4 T 76 B/R

श्रेणी Class	XR	कूट समय Code Time	दिनांक Date	25.9.89	विभागीय अनुदेश Service Instructions	उद्गम तार घर Telegraph office of origin
प्राप्त Recd.	सं. No.	भेजा Sent at	सं. No.	E/615/VOP	देय प्रभार Charges due	कार्यालय मोहर Stamp of Office
कहाँ से From		किससे To			शब्द Words	
किसने By		किसने By			रकम Amount	

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/- 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

-दस्तावेज also @@@

(इस संदेश को सामे पृष्ठ साम पर लिखें Carry forward this message on reverse)

सुताभर पश्चिम रेलवे ABN. W. RLY, NOTAD	पता (शुल्क दत्त तार के प्रकरण में) Address (for paid messages)
हस्ताक्षर Signature	पदनाम (विभागीय तार के प्रकरण में) Designation (for service messages)
तार से भेजने के लिए नहीं Not to be Telegraphed	

W.R. L.R. 51/86/117/01: 785; 1,56,000x200.

True copy
by
सुताभर
पश्चिम रेलवे
ABN. W. RLY, NOTAD

पश्चिम रेलवे WESTERN RAILWAY

तार फॉर्म Telegram Form

टो 76 बी/आर 4 T 76 B/R4

श्रेणी Class XR कूट समय Code Time 19.30 दिनांक Date 26.9.89 विभागीय अनुदेश Service Instructions उद्देश्य तार घर Telegraph office of origin

प्राप्त Recd.		सं. No.	भेजना Sent at	सं. No.	E/615/VOP	देय प्रभार Charges due		कार्यालय मोहर Stamp of Office
कहाँ से From			किससे To			शब्द Words	रकम Amount	
किसने By			किसने By					

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/- AEN-BVD, DEN(I)BVP.

Refer this office wire no.E/615 of 24 and 25.9.90⁸⁹ @@@
eight MBS directed from DLJ did not turnup on work
to day also-. @@@

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

प्रेषक From 3a PBT-BNH. हस्ताक्षर Signature..... पता (शुल्क दत्त तार के प्रकरण में).....
Address (for paid messages)
पदनाम (विभागीय तार के प्रकरण में)
Designation (for service messages)

सहायक सचिव
पश्चिम रेलवे
AEN. W. RLY. NOTAD

WRP. MX. 51/06/17/01. 7-85; 1,56,000x200.

True copy

Copy

पश्चिम रेलवे WESTERN RAILWAY

तार फॉर्म Telegram Form

टो 76 बी/आर 4 T 76 B/R

श्रेणी Class XR कूट समय Code Time 21.50 दिनांक Date 24.9.89 विभागीय अनुदेश Service Instructions उद्गम तार घर Telegraph office of origin

		27-9-89		देय प्रभार Charges due	
प्राप्त Recd.	सं. No.	भेजा Sent at	सं. No.	शब्द Words	रकम Amount
कहाँ से From		किसे To			
किसने By		किसने By			

कार्यालय मोहर
Stamp of Office

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, BRM(E)BVP, AEN-ETD.

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

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

PWI-BNH.

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

पदनाम (विभागीय तार के प्रकरण में)
Designation (for service messages)

REF. MX. 51/06/117/01; 7-89; 1,56,000 X 200.

True copy

सहायक प्रबन्धक
पश्चिम रेलवे
आम. व. तार से भेजने के लिए नहीं Not to be Telegraphed

Annexure R/s

25

- The above employees are absconding since from 25.9.89.

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

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

True copy

[Signature]

**RECEIVED
JAN 10 1968
U. S. A. Y. NOTED**

Copy

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, Bhimnath 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

..2/-

10/7/89 Served
to Mr. R. M. M.
Advocate
11/7/89

Copy of Rejoinder filed by Mr. Karshan Daya
Advocate for Petitioner
Respondent with second set
Copy served to respondent & other parties

By Registrar CAT
11.7.89
A. J. J. J.

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^o. 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 Annx. '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

: 3 :

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 absenteeism.


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 : 11/7/94

Ahmedabad


(P. M. 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 : 11/7/92

Ahmedabad

S221a S111