

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**AHMEDABAD BENCH**

C.A. NO. 49 OF 1996 in  
**O.A.NO.** 447 OF 1989  
~~XXXXXXXXXX~~

DATE OF DECISION 11-9-1997

Western Railway Employees Union, Petitioner  
Bhavnagar.

Mr.M.M.Xavier Advocate for the Petitioner [s]  
Versus

Union of India and others Respondent

Mr.R.M.Vin Advocate for the Respondent [s]

**CORAM**

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

The Hon'ble Mr. T.N.Bhat : 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 ?

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Western Railway Employee's Union,  
Bhavnagar Para.

...Applicant.

(Advocate : M.M.Xavier)

Versus

1. S/Shri D.V.Anand,  
Divisional Railway Manager,  
Bhavnagar Para.

2. G.L.Meena,  
Sr.Divl.Pers. Officer,  
Bhavnagar Para.

...Respondents

(Advocate : Mr.R.M.Vin)

J U D G M E N T

C.A. NO. 49 OF 1996  
IN  
O.A.NO. 447 OF 1989.

Date : 11/9/97

Per : Hon'ble Mr.T.N.Bhat : Member (J)

1. We have heard Mr.M.M.Xavier, counsel for the petitioners and Mr.R.M.Vin, counsel for the respondents. We have also perused the relevant records.

2. This is the second Contempt petition filed by the applicants seeking action against the respondents for their alleged failure to implement the Judgment/order of this Tribunal dated 15.3.1995. Earlier, C.A./88/95 had been filed which was disposed of by an order dated 13.3.96, in which it was held that since a decision has already been taken in the matter by the respondents the Tribunal does not see enough ground to proceed further with the

Contempt Application which was based solely on the ground that the decision had been taken beyond the permitted period. A perusal of the aforesaid order, however, reveals that the counsel for the petitioners in the Contempt Application had made a request that the petitioners be granted the liberty to either file a fresh Contempt Application or Original Application on the ground that the decision has been taken without considering the relevant Rules on the issue and that the entire exercise of taking the decision was only a camouflage behind which the respondents were trying to defeat the directions of the Tribunal. This contention of the learned counsel found favour with the Tribunal and the petitioners (applicants in the O.A.) were granted the liberty to file a fresh Contempt Application or Original Application as may be advised. Hence, this Contempt Application.

3. In the Contempt Application the petitioners have sought to raise the same issues as were adjudicated upon by the Tribunal in O.A.NO.447/89. While conceding that the directions of the Tribunal that a decision shall be taken in the matter had been complied with by the respondents it is strongly urged by the petitioners that the decision was wrong on facts. The petitioners have sought to bring out that the petitioners had submitted sufficient proof of the fact that they had worked for some time as casual labourers and that, therefore, they were entitled to be brought on the supplementary live register for casual labourers.

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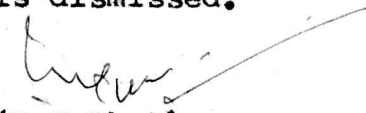
4. The respondents have resisted the C.A. by contending that they have taken the decision in accordance with the relevant rules and instructions and that if the petitioners are aggrieved they should file a fresh O.A. challenging the decision so taken. The respondents have further averred that one of the two petitioners herein namely Babubhai Ravji-bhai was not one of the applicants in O.A./447/89 and the other petitioner, namely, Vinod Mohan had not produced sufficient evidence to prove that he had put in sufficient number of days to entitle him to re-engagement as a casual labourer and placing of his name on the supplementary live Register. In this regard it has been further stated that the certificate relied upon by the applicant was not found to be a valid certificate and that the applicant had at best worked for less than 14 days and, therefore, his name could not be brought on the live register.


5. We have considered the arguments advanced by the learned counsel for the parties and find much force in the contentions made by the learned counsel for the respondents. The controversy raised in this C.A. involves intricate questions of fact and the proper remedy that should be availed by the petitioners is to file a fresh O.A. We do not find sufficient ground for taking action in contempt against the respondents in view of the circumstances and facts of the case.

*[Handwritten signature]*

6. We may, however, mention that an impression seems to have gained ground that Railway authorities of Bhavnagar Division often fail to implement the Judgements of this Tribunal within the stipulated time and they are always on the lookout for excuses and pretexts to deny benefit to those persons who are able to obtain some relief from the Tribunal. The learned counsel for the petitioners in this Contempt Application has been at pains to emphasise the aforesaid allegation. We would not like to coment upon this matter. Suffice it to say that if at any stage it is found that the aforesaid complaint and the allegations have some substance this Tribunal shall not ~~shirk~~ from its duty to uphold the majesty of law and to punish the ~~guklty~~ persons. The respondents would be well advised to consider the cases of all those persons who have obtained favourable orders from this Tribunal in a manner which is indicative of genuine respect for the judgements of the Tribunal. We leave ~~th~~ the matter at that.

For the reasons given above this Contempt Application is dismissed.

  
(T.N. Bhat)  
Member (J)

  
(V. Radhakrishnan)  
Member (A)

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