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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.
~~TAX NO.~~

90 OF 1990

DATE OF DECISION 13-04-1992.

Sukhabhai Somabhai & Ors. **Petitioner**

Mr. P. H. Pathak. **Advocate for the Petitioner(s)**

Versus

Union of India and ors. **Respondent**

Mr. R. M. Vin. **Advocate for the Respondent(s)**

CORAM :

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

The Hon'ble Mr.

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

1. Sukhabhai Somabhai,
2. Ranchhbhai Devabhai
3. Jerambhai Chhanabhai
4. Gordhanbhai Naranbhai
5. Dhirubhai Bhusabhai,
6. Rayasibhai Ramabhai,
7. Bhagwangiri Jethagiri
8. Ishwardas Vallabhdas
9. Karubhai Mavjibhai
10. Chunilal Premjibhai
11. Chhaganbhai Devshibhai
12. Bhailabhai Bhikhabhai
13. Gaurishankar Shividatt
14. Karpaibhai Nannibhai
15. Vejabhai Magrabhai,
16. Dhirubhai Tapubhai
17. Bachubhai Lakshamanbhai
18. Gajubhai Valabhai
19. Laduben Hamirbhai
20. Sutriben Harshinh
21. Kariben Ratabhai
22. Rambai Madan
23. Sita Khushali
24. Dinesh Bhovan.

C/o. Association of Railway
and Posts Employees, 37, Rankaj,
Society, Paldi, AHMEDABAD.

...Applicants.

(Advocate : Mr.P.H.Pathak)

Versus

1. Union of India
Notice to be served through the
General Manager,
Western Railway,
Churchgate, BOMBAY.
2. Divisional Railway Manager,
Western Railway,
Bhavnagar para,
Bhavnagar.
3. Deputy Chief Engineer (C),
Railway Station,
Ahmedabad.

...Respondents

(Advocate : Mr.R.M.Vin)

J U D G M E N T
O.A. NO. 90 OF 1990.

Date: 13-04-1992.

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

new
The applicants, who are casual labourers
working in the establishment of the respondent Railways

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allowance have filed this application claiming the transfer and packing allowance for all the transfers as mentioned in the petition and/or the payment of travelling allowance to the applicants treating them as on duty from the initial date of transfer to the applicants to Bhavanagar till the date. The applicants have averred in this application that they are the senior most casual labourers required to be regularised in their own original division i.e., in Bhavnagar and that they are entitled to the benefits of the temporary status etc. It is alleged that they are rotated as casual labourers since years under the Permanent Way Inspector (C), and IOW (C), Ahmedabad which are the subordinate authorities to respondent no.3. It is alleged that the applicants were transferred from Ahmedabad to Bhavnagar in reference to the orders of the Executive Engineer (C) -1, dated 26th July, 1988, that the applicants were informed to go to report for absorption to respondent no.2, and the applicants were given a free travelling pass also. A copy of such pass is produced at Annexure-A. The case of the applicants is that the respondent no.2, vide his letter dated 11th August, 1988, addressed to the Deputy Chief Engineer, Ahmedabad, transferred the applicants from Bhavnagar to Ahmedabad, vide Annexure-A/1. Reading this letter Annexure-A/1, dated 11th August, 1988, it appears that the respondent no.2, Divisional Railway Manager, (E), Bhavnagar, wrote letter to the Deputy Chief Engineer, (C), Ahmedabad, with reference to the letter's memo dated 18th July, 1988, that 24 (Twenty four) project labourers who were reported

for absorption to the said Division were redirected to the Office at Ahmedabad for absorption. In view of this letter, the applicants were transferred from Bhavnagar to Ahmedabad and they reported to the Office of the Deputy Chief Engineer, Ahmedabad. The respondent no.3, thereafter vide his letter dated 16th August, 1988, vide Annexure-A/2, again transferred the applicants from Ahmedabad to Bhavnagar i.e., to the respondent no.2. The case of the applicants is that the applicants no.15 to 24, were again transferred to respondent no.3, on 6th September, 1988, and the pass was given to them and they were reported to the transferred place i.e., at Ahmedabad on 7th September, 1988. Again the said applicants were transferred from Ahmedabad to Bhavnagar, by respondent no.3, on the same day i.e., on 7th September, 1988. The applicants were then transferred from Bhavnagar to Dholka, vide the order dated 28th November, 1988, which was served to the applicants on 12th December, 1988, and then from Dholka the applicants were transferred to Sabarmati. The applicants are posted under C.P.W.I., Dholka. The head quarters of the C.P.W.I. is at Dholka, and the applicants are at present working at Sabarmati Station. Learned advocate for the applicants submitted that the claim of the applicants in this case is for the transfer allowances or the travelling allowances during the period from Ahmedabad to Bhavnagar and then from Bhavnagar to Ahmedabad.

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2. The respondents have filed reply contending that the applicants were originally engaged as Casual labourers on EIA basis in Viramgam, Okha, Porbandar (VOP) Project in 1978, and onwards on Geographical area of Bhavnagar Division. It is contended that after the Construction of the V.O.P. Project, Deputy Chief Engineer (Construction), Ahmedabad has directed them to work on various other Project work, where the work was available, that the applicants working under Inspector of Works (Construction) Sabarmati- Ahmedabad, were directed to Bhavnagar Division, but they could not be accommodated, due to Administrative reasons, and as explained in O.A. No. 600 of 1988, the necessary payments had been made in favour of the applicants as per the order of the Tribunal dated 24th November, 1988.

3. The main contention of the respondents in the reply is that as the applicants are casual laboures working against Construction and Track Renewal Work (CTR) they have to move to the place where work is available and necessary passes were issued to reach at the Site, but they are not entitled to any travelling allowance,, or transfer allowance or packing allowance being Casual Labourers. The respondents in para-7, of the reply have contended that the position of the applicants in which the Executive Engineer (Construction) Rajkot has granted the regular pay scale and Temporary Status, is shonen in details in that paragraph. It is contended that they are at present working and regular increments are also granted to them as per the category shown. It is contended that the applicants are not permanent employees, regularised and nor they are screened persons and their services are not

as such, they are not entitled to the benefit of Travelling Allowance, etc. because according to the respondents, such benefits are extended to the persons whose services are permanent and regularised.

4. Learned advocate for the applicants submitted that the applicants, casual labourers who had original Division, Bhavnagar, when transferred or sent for work to Ahmedabad by the order of the Executive Engineer (Construction) Ahmedabad, dated 26th July, 1988, and when they sent from Ahmedabad to Bhavnagar, in response to that order Annexure-A, and sent back, they should be paid the transfer allowance or travelling allowances. He submitted that the document Annexure-A/2, dated 16th August, 1988, written by Rly. C.F. (C) VOP, Project. Mr. Nigam, also supports the case of the applicants. He submitted that the Casual Labourers cannot be transferred because the transfer is not the condition of their service. Mr. R.M. Vin, learned advocate for the respondents submits that the applicants are not entitled to these allowances because they are not permanent or regularised. He submits that the benefits admissible as per rules and regulations of Rly. Administration have been extended to the applicant by way of granting temporary status from 1st January, 1983, in the regular pay scale against the category in which they are at present working. He submitted that the applicants were casual labourers and had to go for work from place to place and accordingly necessary passes were issued to reach at the site of their new work, but they are not

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entitled for any Travelling allowances. The original Division of the applicants is Bhavnagar and therefore, when they were sent for work from Bhavnagar to Ahmedabad and again from Ahmedabad to Bhavnagar, they should have been paid the allowances according to the rules for that period and i.e., the claim of the applicants. The respondents have contended that the applicants have challenged the transfer by filing O.A./600/88.

5. This Tribunal has decided in O.A.NO.373 OF 1989, in the case of Nabi Ahmed and ors. Vs. Union of India and ors., decided on 5th March, 1992, relying on the previous decision in O.A./8/88, (Khuman Kadu and 62 ors, Vs. Union of India and Ors.), decided on 1st July, 1988, and relying on the decision in Ramnivas Matadeen and 42 ors. Vs. Union of India and ors. reported in (1991) 15 ATC P.366, of the Jodhpur Bench, that as the casual labourers are not liable to transfer as per para 2501, of I.R.E.M. they can not be transferred provided the respondents pay the daily allowance and travelling allowance admissible under para 2508, of I.R.E.M. It is held that when it is necessary to depute them on duty away from their head quarters, daily allowance will be paid to the skilled, semi-skilled and unskilled casual labour at the rates mentioned therein. It cannot be disputed that when the applicants were sent for work from Bhavnagar to Ahmedabad and from Ahmedabad to Bhavnagar, the distance was more than 8 K.M. from their headquarters and hence they are entitled to the benefit of this para 2508, for the period during which they were sent out side the

headquarters of Bhavnagar, which is their original division. The net result in view of these decisions is that the applicants would be entitled to the allowances admissible in para 2508 of I.R.E.M. for the period for which they were sent for work out side their original Division from Bhavnagar, from 26th July, 1988 up to the date of this application dated 16th October, 1989, less the amount if any paid as allowance.

6. Having considered all the points, the following order is passed :

ORDER

"The allowances admissible to the applicants under para 2508 of I.R.E.M. be calculated between the period from 28th July, 1988 up to the date of this application, dated 16th October, 1989, for the number of days they were sent out side their original Division, Bhavnagar, for working, i.e., from Bhavnagar to Ahmedabad and back, and the respondents after calculating the said allowance admissible under para 2508, of I.R.E.M. to pay the amount less paid, if any. The respondents to calculate the said allowance admissible and to pay this amount within a period of four months from the date of receipt of this order. The application is disposed of. No order as to costs."

R.C.Bhatt
(R.C.Bhatt)
Member (J)

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O.A. /90/90

Coram : Hon'ble Mr. M.M. Singh : Administrative Member

12/3/1990

Heard Mr.P.H.Pathak, learned advocate for the applicants and Mr.B.R.Kyada, learned advocate for the respondents. Mr.P.H.Pathak states that at bar that an original application by the applicants herein to question their transfer has been filed. However, he is not aware whether the application has been admitted and he is also not aware about the number of the application. Pending admission. The applicants are directed to mention the O.A. number of the application whereby they had before this Tribunal, questioned their transfer order. The information may be furnished within two weeks of this order.

M. M. Singh
(M.M. Singh)
Administrative Member

a.a.bhatt