

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD**

O.A.No. 222 OF 1992

Ahmedabad this the 31st day of August, 2000

Hon'ble Mr. V. Ramakrishnan, Vice Chairman
Hon'ble Mr. P.C. Kamman, Judicial Member

1. Kamalsingh J.
2. Association of Railway &
Post Employees through its
Vice President S.N. Babele
Having office at Aalap Flats
Opp. Anjali Theatre,
Vasna Road, Ahmedabad-7.

Applicants

By Advocate: Mr. P.H. Pathak

VERSUS

1. Union of India
Notice to be served through
Divisional Railway Manager
Western Railway, Pratapnagar,
Baroda.
2. Chief Works Manager
Engineering Workshop
Western Railway, Sabarmati,
Ahmedabad.
3. Assistant Engineer
Western Railway
Sabarmati.

Respondents

By Advocate: Mr. N.S. Shevde

J U D G M E N T

Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The applicants were engaged as casual labourers Khalasis in Baroda division. Their names are at Annexure A. Their option to go to concrete sleepers factory in Sabarmati was asked for and they gave willingness and they were taken to such factory. Subsequently the concrete sleepers factory was closed and they have approached the Tribunal seeking the following reliefs:

“(A) The Hon'ble Tribunal be pleased to declare the impugned action on the part of the respondents closing down the Sleeper Factory at Sabarmati, without following the provisions of Sec. 25(O) of the Industrial Dispute Act, as arbitrary, illegal, unconstitutional and be pleased to quash and set aside the same and direct the respondents to continue the applicant employees as Khalashi in the Sleeper Factory till the appropriate procedure is followed to close down the factory.

(B) Be pleased to declare that the respondents have no power to change the cadre of the applicant employees i.e. from Khalashi to Gangman for any reason whatsoever including the closure of Sleeper Factory at Sabarmati and therefore direct the respondents to absorb the applicant employees as Khalashi and give the seniority benefits etc. accordingly.

(C) Be pleased to declare the action of the respondents transferring the applicant employees under the permanent way inspector, where there is no post of khalashi exist, is ex facie arbitrary and being of non application of mind, is violative of Art.14 of the Constitution of India and be pleased to quash and set aside the same and direct the respondents to pay all the dues to the applicant

02

employees for transfer etc. to carry out its impugned order.

(D) Be pleased to declare that there is no justification available to the respondents to change the cadre of the applicant employees and to close down the Sleeper Factory and to declare the employees as surplus.

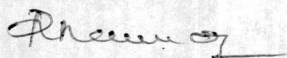
(E) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost."

2. We have heard Mr. Pathak for the applicants and Mr. Shevde for the respondents. Mr. Pathak says that he does not press the first prayer.

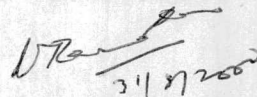
3. At the outset we may state that in terms of the law laid down by the Hon'ble Supreme Court in the case of Krishnaprasad Gupta Vs. Controller, Printing & Stationery, (1996) 32 ATC 211, this Tribunal has no jurisdiction to entertain matters pertaining to the I.D. Act. As such the main relief in para 8(A) cannot be granted by this Tribunal. Mr. Pathak however states that he does not press this prayer but the applicants are only interested to see that the service rendered by them as casual labourer Khalasis in open line earlier is not wiped out and that they are absorbed on regular basis in accordance with the relevant rules and instructions. Mr. Shevde submits that the applicants had been sent back to their parent unit, and that he also draws attention to the reply statement that the respondents propose to take the work of khalasi only from the applicants and do not propose to compel them to work as Gangman against their willingness. Mr. Shevde also draws attention to the submissions made before this Tribunal in OA 205/1992 where the policy followed by the authority in this regard has been clarified.

4. We have gone through the submissions of both counsel. In view of the fact that the challenge is to closure of Sleeper Factory, contending that it in violation of Section 25(O) of the I.D. Act the main relief sought for by the applicants cannot be granted by this Tribunal. However, we record the submission of Mr. Shevde that the applicants are not forced to work as Gangman and they would be working only as Khalasis and they were sent back to the parent unit from where they have worked earlier on closure of sleeper factory. Mr. Shevde submits that the Railways have stated in OA 205/1992, that the service rendered by similarly situated persons in the open line prior to their deputation to the sleepers factory would also be counted for the purpose of seniority etc., and this principle would apply here also.

5. While we have recorded the submission of Mr. Shevde, we hold that this Tribunal cannot grant the relief prayed for in the present OA for want of jurisdiction and the OA is disposed of accordingly with no order as to costs.



(P.C. Kannan)
Member(J)



(V. Ramakrishnan)
Vice Chairman

Vtc.