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O.A.No.640/90

Anna Kashinath & 30 others.

... Applicants

V/s

Union of India & Ors.

... Respondents

CORAM : Hon'ble ~~Member~~ V/C, Shri U.C.Srivastava
Hon'ble Member (A), Shri P.S.Chaudhuri.

Appearances:

Mr. D.V.Gangal, Advocate
for the applicant and
Mr. S.C.Dhawan, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 13.8.1991

(Per. U.C.Srivastava, V/C)

The applicants, 30 in number, have approached this Tribunal with the grievance that they have been sought to be transferred from construction work to open line work, which is prohibited under Rule 2501 of the Indian Railway Establishment Manual and this has also been finally ruled out by the Central Administrative Tribunal, Ahmedabad Bench vide judgement dated 30.1.87 which judgement has now become final. The applicants have stated that they are casual labourers and attained temporary status and under Rule 2508 the casual labourers can be deputed away from the headquarters provided they are granted daily allowance. As such the applicants are not transferable and the Railway Administration in order to avoid their regularisation ~~are~~ are seeking to utilise them against the work of regular nature which is prohibited as permitting casual labourers to work on work of regular nature will deprive regularisation of casual labourers and this will also be contempt of the Supreme Court and also contempt of law. Thus their grievance is against the transfer order ~~which~~ transferring them from project

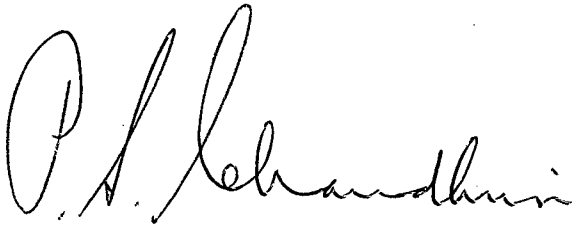
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work to regular establishment. ~~But the Ahmedabad Bench~~
~~xxxx xxx~~

2. The respondents have opposed this application and have contended that certain facts have been suppressed in as much as the originating division of applicants for purpose of maintenance of seniority is Solapur Division i.e. DRM (P) SUR; seniority list, as per the directive of the Supreme Court, for project casual labourers has been prepared and exhibited; the work of the Gulbarga-Shahabad doubling has been completed and there is no more other work to utilise the services of these labourers at the work charged project; and that the respondents are offering them employment in lieu of retrenchment by transferring them to the open line in the same sub-division with a possibility of being absorbed against regular vacancies after screening as per procedure. But the Ahmedabad Bench case has also been distinguished^u and it has been stated that the applicants have not made reference to certain observations ^uin the said judgement which do^u not support their plea. This matter came up for consideration before another Bench of this Tribunal of which one of us (U.C. Srivastava) was a Member (O.A. 372/90 & 4 Ors.) in which all the pleas raised were considered and after discussing the Ahmedabad judgement it was pointed out that the Ahmedabad Bench itself also accepted^h that divisionwise list is to be prepared and that transfer can be offered^u to a casual labour^{even} from one division to another division as an alternative to resorting to termination of his service. In the said judgement we held ^u(that) we are of the opinion that a project labour as such cannot be transferred to another division without his consent but he can be transferred in the same division to other work places. For transferring to another division

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obviously his consent is required and in case he consents to the same he could be transferred. We uphold the above decision and with above directions we dispose of this case also. There will be no order as to costs.



(P.S. Chaudhuri)
Member (A)



(U.C. Srivastava)
Vice-Chairman