

(3)
A2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 175/93

Date of Decision: 23.3.93

JAGRAM & ORS

: Applicants

VERSUS

UNION OF INDIA & ORS

: Respondents.

Mr. Tej Prakash)

Mr. Anil Mehta)

: Counsel for the applicants.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

Applicants have stated in their application that they are working for a period from 10 to 12 years with temporary status as Khalasi in Railway Electrification, Kota. It is the ignominy of the system based on the foundation laid down during the British regime that our mental approach of democratic country is not ripe and in some cases even not generated in the minds of the persons who claim to represent the society or others. A person working for 10 to 12 years cannot be said to be a casual labourer. A casual labourer is a labourer appointed, engaged or taken on contract basis for performing the un-anticipated, unplanned nature of the work. A work which is a planned work, which may be of temporary nature and the employees appointed on such work can generally be not said to be casual labourers. They are labourers working temporarily on a temporary work as the work is a planned work and anticipated and not an unforeseen. I disagree with the submissions made in this application by the applicants' counsel that the persons who are working for 10 to 12 years are still the casual labourer.

2. It is the policy of the State to endeavour for the welfare of the down-trodden section of the society and particularly the labour class, the peasantry and the backward classes. A person who is a labourer should not ordinarily be transferred within the Division if the work is available within the Division. If the work is not available within the Division naturally he will have to be transferred temporarily nearby the Division wherever the work is available if he is willing to go to avoid the retrenchment. In the instant case, if the work is available, the question of transfer does not arise. If the work is not available, an option should be given to the applicants whether they would like to go to a place outside the Division temporarily so that the necessity of retrenchment may not arise immediately. They should also be assured that the seniority list has been maintained by the Division of the persons sent out of the Division temporarily on other project work and as soon as the vacancy arises in the same Division they should be

4

A2

absorbed again in the same Division and thus the real spirit of economic development and social upliftment of the down-trodden people and economically poor section can be achieved. If the seniority list is not maintained, the same should be prepared within a period of 4 months. As far the applicants' contention is that they should not be transferred is not maintainable. If the work is there, naturally they cannot be transferred; if the work is not there they will have to be transferred temporarily and they will have to be absorbed again as soon as the vacancy occurs or the work is available in the same Division. The persons who are senior have a better right for early absorption and on the basis of the seniority, the persons will be reverted to the parent Division as soon as the work is available. It is further clarified that the persons who are transferred are entitled for all the benefits of transfer just like ordinary employees. They cannot be denied on the ground that they are temporary labourers.

3. With these observations, the O.A. is disposed of at the stage of admission. No notice is necessary. A copy of the judgment may be sent to the respondents.

4. There shall be no orders as to costs.


(D.L. MEHTA)
Vice-Chairman