

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A. No. 650/94

Dt. of order: 28.3.1995

Aladdin & Ors.

: Applicants

Vs.

Union of India & Ors. : Respondents

Mr. P. V. Calla : Counsel for applicants

Mr. Manish Bhandari : Counsel for respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Member (Judl.)

Hon'ble Mr. O. P. Sharma, Member (Adm.)

PER HON'BLE MR. O. P. SHARMA, MEMBER (ADM.).

In this application under Sec. 19 of the Administrative Tribunals Act, 1985, applicants S/ Shri Aladdin, Alla Noor, Ram Sahai, Faqrudin, Nizamuddin, Nathu Lal, Mata Prasad, Munni Lal and Vikram Singh have prayed as under:

i) The respondent No. 2 may be restrained from acting upon the order dated 30.9.'94 (Annex.A1) by which the applicants are proposed to be transferred to other Divisions from the Jaipur Construction Project.

ii) The respondent No. 1 may be directed to issue directions to his subordinate offices not to take action which affects the rights of regularisation of the applicants.

iii) The respondent No. 3 may be directed to issue orders regarding regularisation of the applicants from the date from which the juniors were so regularised in Group-D posts.

iv) The respondent No. 2 may be directed to adhere to the instructions in the letter dated 14.5.'92 (Annex.A2) by which the Kota Division had directed that on completion of the work for which they were sent to Jaipur Division, they would be directed to report to Kota Division for absorption.

2. The case of the applicants in brief is that they were all engaged as casual labour in Kota Railway Electrification Project. Their seniority is maintained in the said Project and they have all been granted temporary status in that Project.

By Annex.A2 dated 14.5.'92, they were sent to Jaipur Construction Project and it was specifically directed in the said order that on completion of the work they would be directed to report back to Kota Division for absorption. However, on completion of the work in Jaipur Construction Project, they have been deployed in other Divisions in the Western Railway. Their grievance is that the respondents have not adhered to the terms of letter Annex.A2 dated 14.5.92 under which they were sent to Jaipur Construction Project and on completion of work there they were asked to report back to Kota Division. They have, therefore, sought directions as above.

3. The respondents in their reply have stated that since the Railway Electrification Project in Kota Division was completed, there was no work left for these applicants and therefore they have no option but to retrench them for want of work. However, there was no work available in Kota Division, the applicants were sent to Jaipur Construction Project and on completion of work there, they were sent to other Divisions such as Ajmer or Baroda, for utilising their services where work is likely to continue for another two years. Therefore, according to them, the orders of transfer have been passed in the interest of administration as well as the employees concerned. The applicants have not shown that any persons junior to them have been regularised in Kota Division.

4. We have heard the learned counsel for the parties and have gone through the records. It is undisputed that the seniority of the applicants is maintained at Kota Division and they have also been granted temporary status there. They were initially transferred to Jaipur Construction Project on completion of work in Kota Electrification Project and thereafter on completion of the Construction Project work in Jaipur Division, they have been further transferred to other Divisions within the Western Railway. No doubt the order regarding transfer of these applicants first to Jaipur Construction Project and thereafter

to other neighbouring Divisions were passed in the interest of administration but it cannot be said that the applicants were also not at all benefitted by this approach of the administration, in as much as, they were engaged on ongoing Projects rather than being retrenched on completion of the Project work in Kota Division.

5. By way of an interim direction issued on 20.12.94, the Tribunal had directed the respondents that if any of the applicants are declared surplus in pursuance of the instructions contained in Annex.A1 dated 30.9.1994, they shall not be transferred to any Division other than Kota Division. In the circumstances of the case and after hearing the counsel for the parties, we direct that the applicants may be continued to work on the Projects on which they are employed at present and on completion of the work in these Projects, they shall be transferred back to Kota Division in terms of the Direction contained in Annex.A2 dated 14.5.92. They shall ofcourse continue to retain their seniority in Kota Division, where they have already been granted temporary status. They shall also be considered for regularisation in Kota Division, as per the existing policy, rules and instructions.

6. During the arguments, the learned counsel for the applicants stated that if the transfer of the applicants to first to Jaipur Construction Project and thereafter to other Divisions is upheld, they should at least be granted transfer allowance to enable them to move to these Divisions. The learned counsel for the respondents stated that as per rules such transfer allowance is not admissible to casual labour. At the same time it appears to us that casual labour is not liable to transfer from one Division to other in ordinary course. It is in extraordinary circumstances and also in the interest of administration that their transfer have been effected. In such circumstances the respondents are directed to grant transfer allowance to the applicants which would have been otherwise admissible to them

had they not <sup>been</sup> ~~casual~~ labour/temporary status holders.

7. The O.A. is disposed of accordingly <sup>at the admin stage</sup> with no order as to costs.

  
(O.P. Sharma)  
Member (A).

  
(Gopal Krishna)  
Member (J).