

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00205 of 2016

Date of Order: This, the 02nd day of December 2019

**THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER
THE HON'BLE N. NEIHSIAL, ADMINISTRATIVE MEMBER**



Purbanchaliya Rail Karmi Parishad
Represented by its General Secretary
Sri Bindeswari Prasad, having its
Registered Office at Maligaon
District – Kamrup (M), Assam.
Guwahati – 781011.

...Applicants

By Advocates: Mr. Adil Ahmed, Ms. R.R. Rajkumari
and Mrs. D. Goswami

-Versus-

1. The Union of India
Represented by the Secretary
Ministry of Railways
Rail Bhawan, New Delhi
Pin – 110001.
2. Chairman Railway Board
Ministry of Railways, Govt. of India
Rail Bhawan, New Delhi
Pin – 110001.
3. Advisor (IR) Railway Board
Rail Bhawan, New Delhi
Pin – 110001.
4. The General Manager (P)
N.F. Railway, Maligaon, Guwahti
Kamrup (M), Pin – 781011.

5. The Chief Personal Officer
N.F. Railway, Maligaon, Guwahti
Kamrup (M), Pin – 781011.

...Respondents

By Advocate: Ms. U. Das, Railway Standing Counsel.

O R D E R (ORAL)

N. NEIHSIAL, MEMBER (A):



Heard Sri Adil Ahmed, learned counsel for the applicant and Ms. U. Das, learned railway standing counsel for the respondents.

2. The applicants Association/Union initially went to the Hon'ble Gauhati High Court at Guwahati vide WP(C) No. 3259/2013 wherein the Hon'ble Gauhati High Court vide its judgment and order dated 21.06.2013 directed the respondent authorities to consider the case of the applicant Association for absorption in Group 'D' posts within a period of three months' in accordance with law. The respondent authorities vide their speaking order under No. E/170/Legal Cell/NS/1691/2013 dated 10.09.2013, examined the case and rejected their demand due to non-receipt of clear guidelines from the Railway Board. Thereafter, the applicant Association / Union went back to the Hon'ble Gauhati

High Court vide C.P. (Civil) No. 410/2013 where the Hon'ble Gauhati High Court vide order dated 10.02.2014 closed and disposed of the said C.P. (Civil) with the liberty to approach before the appropriate forum.



3. The applicant Association/Union approached this Tribunal in O.A. No. 040/00123/2014 wherein after detailed examination, vide order dated 03.07.2015, the respondent authorities were directed by this Tribunal to consider the case of the members of the applicant Union for absorption in Group 'D' service under Railways as per the instructions of the Railway Board keeping in mind the eligibility and norms prescribed in the same, subject to the availability of vacancy. The exercise was directed to be completed within a period of 03 (three) months.

4. It was observed at para 23 of the aforesaid order of this Tribunal dated 03.07.2015 that in 2007, applicant Union did participate in Secret Ballot Election on All India Basis and got 1200 votes. The respondent authorities, however, failed to make any counter submission on this point.



5. Against the order of this Tribunal dated 03.07.2015 passed in O.A. No. 040/00123/2014, the respondent authorities approached the Hon'ble Gauhati High Court in WP(C) No. 7709/2015 on this issue. However, the said Writ Petition was rejected by the Hon'ble Gauhati High Court vide its judgment and order dated 05.01.2016. Subsequent to this, the respondent authorities issued a speaking order under No. E/170/legal cell/NS/2021/2015 dated 17.02.2016 wherein they have specifically brought out that the applicants belong to this particular organization/ Association which was not recognized and did not qualify to be considered as a member of quasi administrative offices/organizations on 10.06.1997 as per the norms for absorption of the members in the Group 'D' posts.

6. They also brought out in details that the Association i.e. Purbanchaliya Rail Karmi Parishad (PRKP in short) had contested in the Secret Ballot of the Railways in the year 2013 and received only 0.9% of the total vote cast which was much below the required bench mark of 30% necessary for recognition as Trade Union in the Railways.



7. We have given detailed hearing on 02.12.2019. During the hearing, learned railway standing counsel for the respondents, Ms. U. Das, produced a copy of letter of N.F. Railway under No. E/301/SBC/Pt.II(U) dated 02.05.2013 wherein it is indicated at Sl. No. 4 that this particular Organization i.e. PRKP, in fact, obtained votes only 315 which is 0.5% of the percentage of Electorate and 0.6% of Valid Votes Cast. At para (i) of the said letter, it is indicated that – “*All Unions getting 30% or more of the single vote of the total electorate shall be considered recognized*”. Since the applicant Union got only 0.6%, therefore, the applicant Union was not recognized as quasi organization.

8. The respondents also pointed out that two individuals namely Smt. Manasi Barman and Shri Dipjyoti Baruah, mentioned in Tribunal/Guwahati's order dated 03.07.2015 in O.A. No. 040/00123/2014, were given appointment under GM's special power and not because they belong to any administrative/quasi-administrative staff. They also pointed out that the applicants referred to in the said judgment of **Shri Shyam Bahadur Chetri & Ors.** and **Shri Sambaran Guha Chaudhury & another** dated 03.07.2015 in O.A. No.

040/00123/2014, belong to quasi-administrative staff/organization whereas PRKP is not quasi-administrative office/organization and the staff engaged by PRKP cannot be treated at par that of quasi administrative staff for absorption in Group 'D' post in Railway as per extant guideline in Railway Board.



9. Keeping in view of the above, we have considered the matter once again and found that the case of the applicants is found devoid of merit and liable to be dismissed. Accordingly, the O.A. is hereby dismissed.

There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)

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