Central Administrative Tribunal
Principal Bench,

(49)

O.A.Nos. 250, 254, 255, 466 & 467 of 1998

New Delhi, this the 15th day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

MEMO OF PARTIES

S. No.	N A M E	FATHER'S NAME	Designation and working under	Date of appointment	Total No. of days.
1.	2.	3.	4.	5.	6.
	S/Shri	S/Shri			
1.	MOHAN MANDAL	MAUJE MANDAL	Ex. Casual Labour. Under Asstt. Engineer, N.E.Rly., Darbhanga.	17.12.74	573
2.	RAMESH CHANDER LAL DAS	GIRIBER DHARI LAL DAS	-do-	16.3.74	530
3.	RAJ KUMAR	DANI LAL	-do-	18.4.77	751
4.	AJAY KUMAR MANDAL	FAUDAR MANDAL	-do-	25.8.77	511
5.	RAM BABU	MOLSH	-do-	17.6.77	560
6.	BIJAY	MYNTH	-do-	29.12.76	538
7.	DASHAI MANDAL	TAITAR MANDAL	-do-	31.12.75	919
8.	RAJENDRA RAI	JIBADH RAI	-do-	3.12.73	558
9.	ATAUR REHMAN	SAHADAT HUSSAIN	-do-	31.12.75	694
10.	KHOKHAI YADAV	JITAN YADAV	-do-	1.12.73	683
11.	VISHESHVAR YADAV	PHULESHWAR YADAV	-do-	1.12.73	640
12.	PARBIT	JAGAI	-do-	19.9.75	724
13.	BACHHA KAMTI	BRAHASPATI KAMTI	-do-	3.4.76	534

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1.	2.	3.	4.	5.	6.
	S/Shri	S/Shri			
14.	MOHD.SHABIR	ABDUL HAKIM	Ex. Casual Labour, Under Asstt. Engineer, N.E.Rly., Darbhanga.	16. 6.67	506
15.	AFID	AJIJ	-do-	16. 6.67	516
16.	MOJIUR REHMAN	TASLIM	-do-	28.7.75	541
17.	PITAMBAR KAMTI	RAGHUVIR KAMTI	-do-	17.1.76	637
18.	BHIKHARI	BADRI	-do-	30.7.73	709
19.	MAJID	FARJAN	-do-	3.9.76	695
20.	SHIBJI SAH	DUKHI SAH	-do-	28.2.74	688
21.	TUNAI PANDIT	MITHOO PANDIT	-do-	17.9.74	630
22.	SALAMAT	AMIR MIYAN	-do-	16.12.74	582
23.	RAM PREET YADAV	BHIKAR YADAV	-do-	31.1.77	571
24.	JAMAL	SAFIQ	-do-	29.3.76	553
25.	MANIR	BADRI	-do-	16.6.74	550
26.	PRITAM YADAV	NAND LAL YADAV	-do-	19.8.76	549
27.	MOHD.MANJOOR	MOHD. SADIQ	-do-	17.7.76	541
28.	MOHD. ALAM	MOHD. HANIF	-do-	29.8.76	522
29.	RAM CHANDER	RUP LAL	-do-	17.1.77	517
30.	CHOWDHRY	SADIQ	-do-	16.11.77	513
31.	SATYA NARAYAN YADAV	SHRI LAL YADAV	-do-	17.5.75	500
32.	AULI MOHD.	NEBAJI	-do-	16.1.75	500
33.	BHARAT RAI	RAMAVTAR RAI	-do-	22.4.75	521
34.	RAMANAND YADAV	SAUKHI YADAV	-do-	27.6.75	730
35.	SEHDEV YADAV	JHAGROO YADAV	-do-	8.6.74	516
36.	LAKSHMI MANDAL	KARI MANDAL	-do-	17.10.75	500
37.	SHIV NANDAN YADAV	AMRIT YADAV	-do-	1.12.73	514
38.	GARIB SAH	RAM PARSAD SAH	-do-	16.1.75	539

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1.	2.	3.	4.	5.	6.
	S/Shri	S/Shri			
39.	MITHILESH SEHNI	SUKHDEB SEHNI	Ex. Casual Labour, Under Asstt. Engineer, N.E.Rly., Darbhanga	23.11.75	568
40.	RAM ASHISH YADAV	JAGDEB YADAV	-do-	23.7.75	519
41.	SOKINDER MANDAL	BRAHMDEB MANDAL	-do-	9.10.73	724
42.	RAM CHANDER MEHTO	RUP LAL MEHTO	-do-	28.3.69	536
43.	LAKSHMAN YADAV	MANPHOOL YADAV	-do-	28.2.74	611
44.	MUSLEEM	ISMAIL	-do-	2.1.76	667
45.	MOHD. JABIR	MOHD. ANUL	-do-	9.12.77	703

... APPLICANTS.

VERSUS

Union of India

Through

1. The Secretary,
   Ministry of Railways,
   (Railway Board),
   Rail Bhavan,
   Raisina Road,
   New Delhi.
2. The General Manager
   North Eastern Railway, Gorakhpur.
3. The Divisional Railway Manager, NER
   Samastipur.
4. The Chief Workshop Manager, NER, Gorakhpur.

..Respondents.

1.	Sh.Mohd.Hanif	Ex.Casual Labour. Assistant Engineer North Eastern Railway Darbanga	31.12.73	701
2.	Sh.Mohd.Muslim S/o Sh.Mohd.Rasul	"	11.6.74	565
3.	Sh.Anand Kumar Thakur S/o Sh.Krit Nath Thakur	"	29.5.74	972
4.	Sh.Fakir Mohd. S/o Sh.Noor Mohd.	"	29.4.74	954
5.	Sh.Ram Ashish Mandal S/o Sh.Uchit Mandal	"	19.5.65	550
6.	Sh.Nathune Yadav S/o Sh.Garbhu Yadav	"	31.12.75	617
7.	Sh. Manik Lal Yadav S/o Sh.Bogi Lal Yadav	"	27.10.75	607
8.	Sh. Ram Prasad S/o Sh. Molash	"	31.12.75	621
9.	Sh. Yogi Saha S/o Sh.Anuthi Saha	"	9.6.77	605.
10.	Sh. Nand Lal Yadav S/o Sh.Chullahai Yadav	"	19.11.75	595
11.	Sh. Pandit Pagiyar S/o Sh. Gulai Pagiyar	"	19.11.75	690
12.	Sh. Ram phal Thakur S/o Sh. Santu Thakur	"	6.2.77	566
13.	Sh. Krishan Saha S/o Sh.Hari Lal Saha	"	19.11.75	595
14.	Sh. Chullahi S/o Sh. Santu	"	21.1.77	642
15.	Sh. Hari Prasad S/o Sh.Bindeswar	"	16.7.75	578
16.	Sh.Chandshekhar S/o-Sh. Guran	"	18.11.75	538

1.	2.	3.	4.	5.
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17.	Sh.Ram Balak S/o Sh.Bagirath	Ex.Casual labour. under Assistant Engineer North Eastern Railway Dharbanga	25.7.73	874
18.	Sh.Shatrugan Roy S/o Sh. Dorik Roy	"	9.2.78	523
19.	Sh.Ram Naresh Roy S/o Sh. Dukha Roy	"	31.5.75	527
20.	Sh. Ram Ratan Roy S/o Sh. Sarjug Roy	"	17.11.75	857
21.	Sh.Rajender Roy Ram Daval Roy S/o Sh.Uchit Roy	"	20.11.74	588
22.	Sh.Rajender Roy S/o Sh.Sone Lal Roy	"	20.11.74	504
23.	Sh.Anand Lal Roy S/o Sh.Shyam Behari Roy	"	21.1.75	579
24.	Sh.Shatrugan Roy S/o Sh.Yadu Roy	"	30.5.75	682
25.	Sh. Raj Narain Roy S/o Sh. Mannu Roy	"	6.11.74	605
26.	Sh. Bhola Roy S/o Sh.Pochan Roy	"	20.11.73	591
27.	Sh. Ram Sewak Roy S/o Sh. Siya Ram	"	23.10.73	513
28.	Sh.Bhuvneshwar Roy S/o Sh. Chettu Roy	"	6.2.74	363
29.	Sh.Raj Narain Singh S/o Sh. Nand Lal Singh	"	3.4.76	556
30.	Sh. Motiur Rehman S/o Sh. Abdul Gaffur	"	1.1.75	540
31.	Sh. Mohan Thakur S/o Sh.Raj Kumar Thakur	"	31.10.77	516
32.	Sh. Ram Praksh Thakur S/o Sh.Ram Dev Thakur	"	19.4.77	631
33.	Sh. Laxmi S/o Sh. Bhatir	"	3.2.76	760
34.	Sh. Shanker Saha S/o Sh.Suba Lal Saha	"	2.5.78	704
35.	Sh.Nand Lal Saha S/o Sh. Battu Saha	"	6.12.77	628

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1.	2.	3.	4.	5.
. . . . .				
36.	Sh.Kripal S/o Sh.Narayan	Ex.Casual Labour under Assistant Engineer North Eastern Railway Dharbanga	22.4.77	590
37.	Sh.Avadh S/o Sh.Khushi	"	1.1.77	589
38.	Sh.Tapeshwar S/o Sh. Gorekh	"	29.12.76	518
39.	Sh.Udey Narain S/o Sh.Basudev	"	29.1 2.76	502
40.	Sh.Tigan S/o Sh.Bholi	"	17.1.77	510
41.	Sh.Dev Narain Roy S/o Sh.Ram Milan Roy	"	31.10.74	506
42.	Sh. Ramesh Yadav S/o Sh. Gonen Yadav	"	21.8.75	723
43.	Sh.Hasim S/o Sh. Nabodh	"	16.7.76	507

All the Applicants is residing Address in Delhi. ... APPLICANTS.

versus

Union of India : Through

1. The Secretary,
   Ministry of Railways,
   (Railway Board), Rail Bhavan,
   Raisina Road, New Delhi.

2. The General Manager,
   North Eastern Railway
   Gorekhpur.

3. The Divisional Railway Manager,
   North Eastern Railway,
   Samastipur

4. The Chief Workshop Manager,
   North Eastern Railway,
   Gorekhpur

....Respondents

S.No.	Name /Father's Name	Design. and working under	Date of appointment	Total number ofdays.
1.	2.	3.	4.	5.
1.	Joginder Thakur S/o Sh. Sukhlal Thakur	Ex. Casual labour Under Assistant Engineer North Eastern Railway Darbanga.	18.8.77	592.
2.	Sh. Kayum S/o Sh. Ishaq	"	29.4.75	901.
3.	Sh. Abdul Suman S/o Sh. Jaan Ali	"	16.1.76	771
4.	Sh. Mugubul Rehman S/o Sh. Ali Jaan	"	29.9.74	620
5.	Sh. Maskur S/o Sh. Jumrati	"	29.5.73	524
6.	Sh. Ashok Kumar Singh S/o Sh. Baleshwar Singh	"	15.2.76	575
7.	Sh. Muninder S/o Sh. Asharfi	"	2.7.75	689
8.	Sh. Ram Sakal S/o Sh. Kapal	"	29.12.76	507
9.	Sh. Ragav S/o Sh. Rajender	"	16.1.76	699
10.	Sh. Kuldip S/o Sh. Jaipal	"	31.3.75	509
11.	Sh. Deepan Saha S/o Sh. Niranjan Saha	"	22.3.73	566
12.	Sh. Sita Ram S/o Sh. Ram Phal	"	22.3.73	841
13.	Sh. Narayan S/o Sh. Panchu Saha	"	1.1.73	580
14.	Sh. Parmaeshwar S/o Sh. Saryug	"	2.8.75	892
15.	Sh. Ram Prasad S/o Sh. Jaggar Nath	"	2.8.75	604
16.	Sh. Ram Herdey S/o Sh. Baso Saha	"	26.3.76	529

MEMO OF PARTIES ~ontd.

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1.	2.	3.	4.	5.
17.	Sh.Dakhan Yadav S/o Sh.Sukhalal yadav.	Ex.~asual Labour under Assistant Engineer, North Eastern Railway Darbanga	31.12.75	543
18.	Sh.Rameshwar Yadav S/o Sh.Sukhalal Yadav	"	19.11.75	595
19.	Sh.Bramdev Prasad Yadav S/o Sh.Yugheswar Yadav	"	19.11.75	576
20.	Sh. Manney Lal S/o Sh. Laxmi	"	9.6.77	663
21.	Sh. Moti Lal Yadav S/o Jakhlal Yadav	"	17.11.77	610
22.	Sh. Mohd. Muslim S/o Sh.Jamir	"	17.3.64	859
23.	Sh.Brijlal Yadav S/o Sh.~hulhai Yadav	"	31.12.75	545
24.	Sh.Ram Narain Yadav S/o Sh.~hulhai Yadav	"	9.1.77	500
25.	Sh.Muslim S/o Sh.Fakruddin	"	23.7.75	535
26.	Sh.Suriya Narain Yadav S/o Sh. Gurran Yadav	"	10.4.77	930
27.	Sh. Navodh S/o Sh. Bureli	"	2.1.76	563
28.	Sh.Liyakat S/o Sh. Jumrati	"	2.1.76	570
29.	~hhobi Mukiya S/o Sh. Bu~har Mukiya	"	22.10.75	727
30.	Sh. Suman S/o Sh. Jumrati	"	28.1.76	539

All the Appli~ants is residing Address in Delhi. ... APPLI~ANTS.

VERSUS

UNION OF INDIA : THROUGH

1. The Se~retary, Ministry of Railway, (Railway Board), Rail Bhavan Raisina Road New Delhi.
2. The General Manager North Eastern Railway, Gorakhpur.
3. The Divisional Railway Manager North Eastern Railway, Samastipur
4. The ~hief Workshop Manager, North Eastern Railway, Gorakhpur ... RESPONDENTS.

1. Mohd. Islam s/o Shri Noor Mohammad	Casual labour under Asstt. Engineer N.E. Rly Darbhanga	27.12.75	543
2. Ulfat s/o Sh. Lalhaya		~~xxxx~~.19.11.75	716
3. Mohammad Taslim s/o Shri Mohammad Jaan		11.6.86	874
4. Abdul Mannan s/o Sh. Ishaq	-do-	17.6.77	526
5. Ramchander Sahu s/o Shri Laxmi Sahu	-do-	24.10.75	878
6. Mahender Choudhary s/o Sh.Gujjan Choudhary	-do-	17.1.76	525
7. Guran Kamati s/o Shri Laxmi Kamati	-do-	27.10.75	732
8. Abdul Razzak s/o Shri Mohammad	-do-	6.5.76	709
9. Sita Ram s/o Shri Babu Lal Mehto	-do-	18.10.75	545
10. Mohammad Phool Hassain s/o Mohd Idgrish	-do-	16.7.74	699
11. Abbahash Ahmed s/o Shri Mohd. Musie	-do-	24.10.75	544
12. Kadir Mohd. s/o Bhola Mohd	-do-	24.10.75	641
13. Mohd. Muzulum s/o Shri Mohd. Reyasat	-do-	28.10.75	661
14. Subhan s/o Mohd Miya	-do-	16.8.75	772
15. Ushman Miya s/o Shri Mohd Miya	-do-	10.10.75	734

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MEMO OF PARTIES

1.	2.	3.	4.	5.
16.	Mohd. Vazid Hussain s/o Shri Niyamat	-do-	16.6.74	625
17.	Yusuf s/o Sh.Hamid Miya	-do-	24.4.76	544
18.	Mohid s/o Sh.Musiyan	-do-	16.4.75	861
19.	Mohd. Vasil s/o Shri Mohd. Ishaq	-do-	16.6.74	823
20.	Aoli Mohd. s/o Shri Abdul	-do-	4.9.66	609
21.	Aabid Hussain s/o Shri Ramju	-do-	16.6.74	500
22.	Upender Chhopal s/o Shri Langra Mali	-do-	30.4.74	563
23.	Ram Udgar Saha s/o Shri Hari Har Saha	-do-	11.6.74	545
24.	Bilat s/o Sh. Nabijaan	-do-	18.6.74	689
25.	Niem s/o Sh. Rojaie	-do-	16.6.74	541
26.	Alauddin s/o Sh. Vali Mohammad	-do-	27.12.75	620
27.	Mohd. Zubair s/o Shri Mohd. Muslim	-do-	1.1.74	500
28.	Mohd. Tahir s/o Shri Mansoor		16.1.76	517
29.	Ram swaroop Mehta s/o Shri Ram Sarain Mehta		23.8.64	500
30.	Ram Saran Yadav s/o Shri Soman Yadav		26.3.77	520
31.	Ram Sobha Yadav s/o Shri Yogeshwar Yadav		27.3.77	571
32.	Ram Rattan Yadav s/o Shri Nand Dev Yadav		5.7.72	525
33.	Yadu Yadav s/o Shri Palak Dhari		1.11.75	523
34.	Shiv Narain Sahani s/o Shri Dasehi Sahani		6.5.74	654
35.	Kapil Dev Yadav s/o Shri Pargash Yadav		18.1.76	730

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MEMO OF PARTIES

1.	2.	3.	4.	5.
36.	Maran Sahani s/o Shri Anoop Sahani	-do-	17.5.75	546
37.	Daneshwar Mandal s/o Shri Mangal Mandal	-do-	16.3.65	616
38.	Maheshwar Parsad Choppal s/o Shri Avadh Parsad Choppal	-do-	16.6.74	553
39.	Rajender Mandal s/o Shri Ugal Mandal	-do-	16.10.75	825
40.	Mohd Abbhash s/o Sh. Sahmed Ali	-do-	10.11.75	509
41.	Jallia Kuzara s/o Shri Govind Kuzara	-do-	2.3.64	682

... Applicants

versus

1. The Secretary,
Ministry of Railways, Railway Board
New Delhi.

2. The General Manager, North Eastern Railway
Gorakhpur.

3. The Divisional Railway Manager,
North Eastern Railway, Samastipur.

4. The Chief Workshop Manager
North Eastern Railway, Gorakhpur.

...Respondents.

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Sl.No.	Name & Father's Name	Designation and worked under	Date of appointment	total No. of days
1.	2.	3.	4.	5.
1.	Sittal Yadav s/o Shri Ram Julum Yadav	~~Ex~~R. Ex. Casual labour under A.E. North Eastern Railway Darbanga	16.6.77	501
2.	Ashrafi Mandal s/o Shri Dukhi Mandal		6.3.73	571
3.	Yusuf s/o Sh. Guttar		19.11.75	685
4.	Ram Gulam Mandal s/o Sh. Dukhi Mandal		20.1.75	571
5.	Mohd. Muskil s/o Shri Abdul Hamid	-do-	28.7.75	557
6.	Lakhan Yadav s/o Kelu Yadav	-do-	18.7.75	668
7.	Machoo s/o Sh. Panchu	-do-	30.12.75	540
8.	Laxmi Mehto s/o Takho Mehto	-do-	27.10.75	600
9.	Ram Sevak Yadav s/o Shri Bathu Yadav	-do-	30.12.74	844
10.	Ram Bilas s/o Sh. Bathu	-do-	6.5.74	568
11.	Mahender Yadav s/o Shri Laxman Yadav	-do-	24.8.64	915
12.	Kusheshwar Yadav s/o Shri Kantir Yadav	-do-	16.9.75	856
13.	Lakshmi Yadav s/o Shri Uchit Yadav	-do-	3.9.78	929
14.	Ram Pukar Yadav s/o Shri Ayodhi Yadav	-do-	30.12.74	501
15.	Ramakant Yadav s/o Shri Ajab Yadav	-do-	16.7.76	709

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Memo of Partie Contd..

1.	2.	3.	4	5.
16.	Aktar S/o Sh. Murtuja	Ex.Casual Labour under A.E.N.North Eastern Railway Darbanga	1-11-55	826.
17.	Ram Sheshtra Yadav S/o Sh.Mithulal yadav	"	7-1-55	626
18.	Ganga s/o Sh.Saryyug	"	4-2-57	681.
19.	Satyanarain S/o Sh.Muneshwar	"	21-9-55	591.
20.	Roop Lal s/o Sh.Saryug	"	1-2-57	705.
21.	Satya Narain s/oSh. Muneshwar	"	21-9-55	577.
22.	Ram Jattan Yadav s/o Sh.Uttimlal Yadav	"	3-7-56	568.
23.	Hari Yadav s/o Sh. Bachha Yadav	"	1-9-57	500.
24.	Baghwat yadav S/o Sh. Baldhari yadav Acchey lal yadav	"	15-6-56	500.
25.	Ram Ashish Yadav s/o Sh.Jaldari Yadav	"	5-3-45	524.
26.	Virulal yadav S/o Sh.Ram Swaroop Yadav	"	11-4-59	560.
27.	Sureydev Sharma s/o Sh. Bhola prasad Sharma	"	5-2-57	522.
28.	Bacchey lal yadav s/o Sh.Lalji yadav	"	16-1-59	754.
29.	Puleshwar Sharma s/o Sh. Yugeshwar Sharma	"	24-6-58	614.
30.	Yoginder yadav s/o Sh. Ramgulam Yadav	"	16-1-57	843.
31.	Boeylal Mistry s/o Sh. Ramroop Mistry.	"	20-11-56	820.
32.	Mithlesh Thakur S/o Sh. Swaroop Thakur	"	1-3-59	642.
33.	Ram Ashish S/o Sh.Prem Lal.	"	1-2-55	666.
34.	Faghney Dass s/o Sh. Balgovind Dass	"	20-1-54	597.
35.	Vivekanand Pandey S/o Sh.Raghuvansh Pandey	"	3-1-57	596.
36.	Sonelal Mehto S/o Sh. Dhakkan Mehto	"	2-9-53	542.
37.	Bhogi Rai s/o Sh. Ram Sobhi Rai	"	25-10-58	630.
38.	Ramprit Rai s/o Sh. Bhutta Rai	"	15-2-51	754.

Memo of Partie Contd..

1.	2	3.	4.	5.
39.	Ram Bilas S/o Sh. Ram Chhallitar	Ex.Casual Labour Under A.E.N.North Eastern R ailway Darbanga	2-11-56	904.
40.	Mohd.Ushmaan S/o Sh. Kallu	"	16-3-55	504.

... Applicants

(By Advocate: Shri B.S.Mainee for all the applicants)

Versus

Union of India : Through

1. The Secretary
Ministry of Railways
Railway Board
Rail Bhavan
New Delhi.

2. The General Manager
North Eastern Railway
Gorakhpur.

3. The Divisional Railway Manager,
North Eastern Railway
Samastipur.

4. The Chief Workshop Manager
North Eastern Railway
Gorakhpur

... Respondents.

(By Advocate: Shri P.M.Ahlawat in all the cases)

ORDER

Common issues of law and fact have been raised in these OAs and accordingly, with the consent of the parties, I proceed to dispose of these OAs by this common order.

2. Facts of the case briefly stated are that the applicants 45 in OA 250/98, 30 in OA 254/98, 43 in OA 255/98, 41 in OA 466/98 and 40 in OA 467/98, in all 199, are aggrieved by their non-regularisation in Group 'D' posts even though they have all worked for a number of years under respondent No.3 (DRM, Northern Eastern Railway, Samastipur), and have been screened in by the

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respondents for the purpose of regularisation. Each one of them had worked for a minimum of 500 days and they were screened accordingly. The screening was carried out in 1981/82 and, as a result, 1038 general community candidates and 141 SC/ST community candidates were screened in. The panel of casual workers thus screened in was, however, published by the respondents only on 31.10.1988.

3. During the year from 1987 to November, 1997, 352 casual workers out of the aforesaid list were absorbed in order of their seniority. According to the applicants, 43 casual labourers junior to them in the aforesaid panel have been appointed. Again, according to the applicants, casual labourers occupying the positions shown in para 4.8 of OA-250/98 in the aforesaid panel have already been appointed by the respondents way back in the year 1981. Some casual labourers whose names did not figure in the aforesaid panel have also been appointed. A list of 8 such persons has been placed on record at Annexure A-3 by the applicants. In addition to the vacancies under the respondent No.3, a large number of vacancies existed under respondent No.4 (Chief Workshop Manager, NER, Gorakhpur) and 146 names out of the aforesaid panel were forwarded to him for absorption/appointment in the said workshop. However, none has been appointed by the respondent No.4.

4. When the matter came up before this Tribunal on 11.2.1998, an ad-interim order was passed restraining the aforesaid respondent No.4 from filling up the vacancies

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in the workshop until the present OAs have been finally disposed of. The aforesaid ad interim order continues till date.

5. The learned counsel appearing for the respondents submits that in follow up of the announcement made by the Railway Minister in Parliament during the discussion on the Railway budget for 1996-97, a decision was taken to regularise all the 56,000 casual labourers (approximately) on railways' rolls as on 30.4.1996, by 1997-98 end. An action plan was accordingly drawn up to ensure that the aforesaid 56,000 casual labourers were absorbed by December, 1997. This was notified by the Ministry of Railways (Railway Board) on 3.9.1996. Later, the Railway Board laid down further guide-lines for the absorption of the aforesaid casual labourers by their letter dated 8.4.1997. In the wake of the aforesaid decisions taken by the Railway Board, the Chief Workshop Manager, NER, Gorakhpur, issued a circular letter of 30.5.1997 inviting applications from screened casual labourers already placed on approved panels. According to the learned counsel, names of 146 (307 according to the respondents) casual labourers finding place on the approved panel of Samastipur Division were thus forwarded to Gorakhpur by Assistant Engineer, Darbhanga's letter of 12.8.1987.

6. The allegation made by the applicants that 43 persons junior to them have been absorbed/appointed has been denied by the respondents. However, in the same breath, they (respondents) submit that only those casual

labourers as were on the roll of the Railways on 30.4.1996 have been engaged and this has been done in accordance with the Railway Boards' instructions dated 3.9.1996 and 11.12.1996. The respondents have taken the same stand in relation to the applicants' allegation that persons placed at Sl. Nos. 510, 522, 619, 673, 679, 689, 790, 870, 837, 876, 895, 935, 953, 965 and 977 have already been absorbed way back in 1981. From the respondents' submission in this regard, it appears that the aforesaid persons might not have been engaged way back in the year 1981 but they have certainly been engaged in consequence of Railway Board's instructions of 3.9.1996 and 11.12.1996. That at least 8 casual labourers not finding place in the aforesaid large sized panel of 1179 have also been appointed, has been indirectly admitted by the respondents by saying that persons who were on their rolls as on 30.4.1996 were given regular appointments against Group 'D' post in accordance with the Railway Board's instructions already referred to.

7. Insofar as the engagement of casual labourers by the respondent No.4 is concerned, the learned counsel has again relied on the Railway Board's instructions calling for the absorption/appointment of those on the rolls as on 30.4.1996 but has added that under the aforesaid respondent only those could be absorbed/appointed as were below the age of 40/45 years. The respondents deny that the casual labourers whose names had been forwarded to the respondent No.4 were screened again and were found suitable. According to the respondents, on the other

hand, only papers scrutiny was carried out by them so as to ascertain the eligibility of the persons in the list. None was found suitable and so no appointment was given. The respondents further insist that Gorakhpur Workshop is a unit different from Darbhanga Sub-Division/Samstipur Division and casual labourers borne on the panel of one unit cannot claim appointment in another unit as a matter of right. Such appointments in a different unit are discretionary and are subject to the over all suitability of candidates with reference to the specific job requirements. It is incorrect, according to the learned counsel for the respondents, that the respondent No.2 (DRM, Samastipur) and the respondent No.4 (Chief Workshop Manager, Gorakhpur) have absorbed/appointed casual labourers from the aforesaid panel with age beyond 40/50 years. Furthermore, insofar as the absorption/appointment of the applicants in Gorakhpur Workshop (respondent No.4) is concerned , the respondents have in their latest affidavit filed on 18.12.2000 categorically asserted that no vacant post against which they could be considered from the point of view of their qualification and suitability exists in the workshop, and that the applicants were at the material time not found suitable for appointment against vacant posts in the workshop on the basis of scrutiny of records. This would mean that they (respondent No.4) have also gone by the clarification rendered by the Chief Personal Officer, NER, Gorakhpur and in their letter dated 16.9.1997 in which it has been clarified that the applicants could be considered only if they happen to be within the age limit of 40 years for general category candidates and 45 years

in the case of SC/ST categories. Though a reference has been made therein to the aforesaid decision of the Railway Board that only those should be considered for absorption/appointment as were on the rolls in April, 1996, yet it has been clarified that casual labourers on the approved panel of Samastipur could also be considered for absorption/appointment provided the candidates were within the aforesaid age limit. A pointed reference has been made therein to para 11.8 of Master Circular No.48 which lays down the aforesaid age limits.

8. Insofar as the absorption/appointment of the aforesaid casual labourers under the respondent Nos. 2 and 3 is concerned, the respondents submit that those not yet absorbed/appointed from the aforesaid list, will be called for employment in their turn as per seniority based on total number of working days put in by each of them. The respondents have not refused to absorb/appoint the applicants listed in the aforesaid large sized panel.

9. The learned counsel appearing for the applicants has vehemently argued by placing reliance on the letter dated 1.10.1997 sent by the DRM, Samastipur to the Chief Personal Officer, NER Gorakhpur seeking clarifications with regard to the age limit and also on the question whether the casual labourers on 1981 panel could be considered for absorption/appointment even though they were not then in point of fact working. In the aforesaid letter, the DRM, Samastipur has made out a nearly convincing case that no age limit can be insisted upon when it comes to the absorption of casual labourers who

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were initially recruited within the prescribed age limit. According to the DRM, in old matters when the age limit was not taken into consideration at the time of initial appointment, the DRM had the power to relax the age limit by considering the individual cases sympathetically. The DRM has, while arguing the case in favour of the applicants, placed reliance on para 2006 (3) of IREM Vol.II and paras 5 & 6 of Master Circular No.20. Insofar as the question of absorption of 1981 panelists not being on the rolls of the Railways in April, 1996, i.e., not found working in April, 1996, is concerned, the DRM has categorically stated that the approved panel in question is bound to remain alive all the screened casual labourers thereon have been absorbed. In support of this claim, the DRM, Samastipur has placed reliance on a decision of the Tribunal in OA-527/1990 given on 30.9.1991 and which reads as follows:-

> "In view of the above, the respondents are directed to appoint the applicants on their turn in order of seniority, if any, assigned to them in the same large sized panel, if they are found fit for the work for which they are to be appointed. It is made clear that no junior to the applicant shall be appointed without first considering the applicants.."
> (emphasis supplied)

10. The aforesaid letter of the DRM has been duly considered by the General Manager, NER, Gorakhpur and the matter has been clarified in the GM (P), Gorakhpur's letter of 17.11.1997 addressed, inter alia, to the DRM, Samastipur/Chief Workshop Manager, Gorakhpur (respondent Nos. 3 & 4). I have perused the same and find that by the aforesaid letter, the GM (P), Gorakhpur has

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reiterated the same condition with regard to age as was clarified in CPO, NER, Gorakhpur's letter of 16.9.1997.

11. The net rule position which thus emerges is that the age criterion of 40 years for general candidates and 45 years for SC/ST candidates is to be applied not only by the Chief Workshop Manager, Gorakhpur but also by the DRM, Samastipur. The learned counsel appearing on behalf of the applicants has, however, argued that the rule laid down in para 2006 (3) of IREM Volume II cannot be superseded by a clarification furnished by the GM (P), Gorakhpur. Going by the aforesaid rule, there should be relaxation at the time of actual absorption of a casual labourer who was initially recruited within the prescribed age limit. Further, relying on paragraphs 5 & 6 of the Master Circular No.20, age relaxation should be automatic at the time of actual absorption in all cases in which it is established that the casual labourer was recruited within the age limit. The aforesaid rule position has been laid down by the Railway Board and cannot be set aside by the GM (P), Gorakhpur.

12. The learned counsel appearing for the respondents has lastly drawn my attention to the order dated 12.2.1999 passed by this Tribunal in OA-590/98 in which the applicants belong to the same panel were similarly aggrieved by their non-absorption while their juniors had allegedly been absorbed. The rule position with regard to the question of absorption/appointment of the casual labours placed on the aforesaid panel was discussed in the order and it was found that while the respondent No.4

could validly invoke the criterion of age limit, being a unit different from the unit to which the applicants belonged, the same criterion could not possibly be invoked when it comes to the appointment/absorption of the casual labourers on the panel within the same unit, namely, in the Darbhanga Sub-Division/Samastipur Division. I reproduce below the relevant portion of the order passed by this Tribunal in the aforesaid case:-

> "4...The applicants had admittedly only a right to be considered for appointment against vacancies available under Respondent No.3. The names of the applicant as well as others were forwarded to Respondent No.4 for consideration. Respondent No.4 while considering the available names decided to impose a ceiling in respect of the maximum age. So long as this ceiling was applied on an uniform basis, across the board, there could be no question of discrimination. For vacancies under Respondent No.3, the applicants could be considered to be casual labourers awaiting absorption in terms of Para 2000 (3) of IREM Vo. II. However, in regard to appointment under Respondent No.4, they could not be entirely so regarded. The Respondent No.4 was, therefore, within his rights to apply the criteria of direct recruitment in regard to the panel of names obtained by him from Respondent No. 3. As the applicants had no right for absorption in vacancies under Respondent No.4, they could not claim that the provisions of only railway instructions in regard to absorption of casual labour should be applied to them and not those applicable to direct recruits. The position would have been different in respect of vacancies under Respondent No.3..."

12. In the same order, the Tribunal also had occasion to observe that "...Here it has not been disputed that none junior to the applicants has so far been given regular appointments." The position in the present OAs in

this respect is different inasmuch as, though not directly, the respondents have admitted that persons junior to the applicants in the aforesaid panel have been appointed in terms of the Railway Board's instructions to the effect that those on the rolls as on 30.4.1996 should be engaged more or less on priority basis. The respondents have repeated the same ground in reply to the applicants' categorical assertion that 16 different casual labourers, whose ranks on the aforesaid panel have been indicated, were also appointed. There is an admission, though not direct again, that at least 8 persons who were not at all on the aforesaid approved panel have also been absorbed/appointed, though the same has been done in compliance of the Railway Board's directive with regard to those on the rolls as on 30.4.1996.

13. In the circumstances, I am convinced that the respondents have made appointments of juniors as well as outsiders ignoring the valid claims of the casual labourers on the aforesaid approved panel. That being so, I have no option but to dispose of these OAs with the same direction which was given by this very Tribunal in OA-527/90 with this difference that the casual labourers on the aforesaid panel to be absorbed/appointed in future shall be given notional seniority with reference to their juniors since already regularised by ignoring the legitimate claim of the applicants. In the circumstances of this case, I have also no hesitation in holding that the directive of the Railway Board that those on the rolls in April, 1996 or as on 30.4.1996 should be

absorbed/appointed as a matter of priority has resulted in gross injustice being meted out to the casual labourers on the aforesaid approved panel. Being discriminatory, the aforesaid directive of the Railway Board is violative of Articles 14 & 16 of the Constitution.

14. In result, the OAs are partly allowed and disposed of with a direction to the respondent No.3 (DRM, NER, Samstipur) to consider the claims of the casual labourers of the aforesaid approved panel for absorption/regularisation in their turn in order of seniority, if any, assigned to them in the said large sized panel, if they are found fit for the work for which they are to be appointed. For this purpose, the aforesaid large sized panel shall operate indefinitely. Those absorbed/appointed will be given notional seniority over juniors, if any, from the same panel already absorbed/regularised. Those absorbed/regularised will be given notional seniority over the outsiders also who have been absorbed/regularised by the respondents subject to the outsiders or any of them being found to be junior to the panelists, not yet considered, by computing their (outsiders) seniority in the same manner in which the seniority inter-se of those placed on the aforesaid panel was determined including the cutt-off date then taken into account. Subject to fitness for work, the aforesaid panel will be operated strictly in order of seniority.

15. Since no directions are proposes to be issued for compliance by the respondent No.4, the ad-interim order in force is hereby vacated.

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16. In the peculiar facts and circumstances of this case, I have not considered it necessary to discuss the various judgements of the Apex/High Courts on which reliance was placed by the learned counsel during the course of arguments partly because some of them will not find application in the circumstances of this case and partly for this reason that the ratio of a few others has already been impliedly accepted in discussing the pros and cons and in reaching the various conclusions.

17. In the circumstances, these OAs are disposed of in the aforestated terms without any order as to costs.

(S.A.T. Rizvi)
Member (A)

/sunil/

Original judgement placed in OA 250/98.

Attested

[illegible]
15/5/2009
C.O. CV