CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A. No. 771/96
&
O.A. No. 1893/96 4th June 1998

Hon'ble Shri R.K. Ahooja, Member (A)

O.A. No. 771/96

1. Lachhman Raut,
   S/o Shri Rajbans Raut

2. Satya Narayan
   S/o Shri Bishan

3. Magendra,
   S/o Shri Mathura Raut

4. Akloo Rawat
   R/o Shri Swat Rawat

5. Ram Narain
   S/o Shri Bhukhal

6. Mohan Thakur,
   S/o Shri Promeshwar Thakukr

7. Joginder Thakukr,
   S/o Shri Sankar Thakur

8. Bihar,
   S/o Shri Ram Nandan

9. Kedar Parshad,
   S/o Shri Sita Ram Parsad

10. Jagan Nath
    S/o Shri Barloo

11. Haqinque
    S/o Shri Mozdim

12. Goo Lal,
    S/o Shri Ugar Sah

13. Ram Chatri
    S/o Shri Lakhan

14. Jhagan Sah,
    S/o Shri Sugvir Sah

15. Rehmat
    S/o Shri Ibhrim

16. Parshad
    S/o Shri Rudal

17. Munib Shah
    S/o Shri Jagdev Shah

18. Madan
    S/o Shri Abdul

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19. Sheo Narayan
S/o Shri Raghumi Mehta

20. Maksood
S/o Shri Ismahomad

21. Wakil
S/o Shri Hadish

22. Kalam
S/o Shri Habib

23. Lajim
S/o Shri Gaffoor

24. Mustafa
S/o ShriHadish

25. Sukai Sah
S/o Shri Maheth Shah

26. Khalil
S/o Shri Noor Hassan

27. Abbash
S/o Shri Ishlam

28. Brij Mohan Shah
S/o Shri Hari Kushme Shah

29. Bhuteli Raut
S/o Shri Bigh Raut

30. Wahed,
S/o Shri Medoo Mia

31. Ambica
S/o Shri Sarjoog

32. Ram Narayan Mehto
S/o Shri Bhusa Mehto

33. Shiv Balak
S/o Shri Chanara Deo

34. Kashi Singh
S/o Shri Mahendra Singh

35. Abdul Samed
S/o Shri Rahim Miya

36. Kailash
S/o Shri Raghunandan

37. Bimal
S/o Shri Gorakh

38. Ramswaroop Giri
S/o Shri Jagan Nath Giri

39. Satya Deo Thakum
S/oShri S.D. Thakur

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40. Bharat Pandit
S/o Shri Narayan Pandit

41. Kabir
S/o Shri Gefoor

42. Aawadh Narayan
S/o Shri Sukkdev

43. Acchey Mehto
S/o Shri Shri Dayal

44. Khub Lal Thakukr
S/o Shri Jodha Thakur

45. Brij Mohan Singh
S/o Shri Jamuna Singh

46. Hanif
S/o Shri Mazid

47. Nagiindra Raukt
S/o Shri Algo Raut

48. Yogi Raut
S/o Shri Jukit Raut

49. Manif Khan
S/o Shri Abduk Khan

50. Abdul Latif Ansari
S/o Shri Karim Ansari

51. RamAyodhya Mehto
S/o Shri Bipat Mehta

52. Bikarma
S/o Shri Mukh Lal

53. Sukat
S/o Shri Deljan Miya

54. Shamboo
S/o Shri Pawari

55. AliMahamed
S/o Shri Alijan Mian

56. Khushmahamad
S/o Shri Sukat

56. Shambu Raut
S/o Shri Ram RathuNath

58. Wahid
S/o ShriFida Miya

59. Mustafa
S/o Shri Dhauksi

60. Fajullah
S/o Shri Wokel

61. Surender Singh
S/o Shri Ram Lagan Singh

62. Jahir Miya
S/o Shri Sia Juddin Miya

63. Rayid
S/o Shri Adalat

64. Jainu Deen
S/o Shri Thithar

65. Aziz Miya
S/o Shri Jhkoio Miya

66. Shri Kishore Kumar
S/o ShriRamdev Parsad

67. Bilasi Mehto
S/o Shri Charitar Mehto

68. Ramadhar
S/o Shri Kukldip

69. Ram SewakRai
S/o Shri Mangal Rai

70. Maharaj Singh
S/o Shri Kailash Singh

71. Asarfi Shah
S/o Shri Ujgar Sah — Petitioner

(Shri B.S. Mainee)

-Versus-

1. The Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi

2. The General Manager,
North Eastern Railway,
Gorakhpur.

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

4. The Permanent Way Inspector,
North Eastern Railway,
Raxaul,

5. The Permanent Way Inspector,
North Eastern Railway,
Narkatiaganj. — Respondents

(Shri P.S. Mahendru)

O.A. No. 1893/96

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1. Gajadhar Jha
   S/o Shri Surjug Jha

2. Ganesh
   S/o Shri Sonelal

3. Ram Akwal Rao,
   S/o ShriBilash

4. Bhagrith Rai
   S/o Ram Atar Rai

5. Madho
   S/o Shri Bhajan

6. Bisemdeo
   S/o Chulhai

7. Kapilprit
   S/o ShriGaneshPrit

8. Ramlakhn
   S/o ShriNank

9. Mahindra Sah
   S/o ShriJimodhar Sah

10. Ram Dhar
    S/o Shri Kamal

11. Ramadhar
    S/o Shri Mojhi

12. Bhola
    S/o Shri Suraj

13. Chandirka
    S/o Shri Sukhal

14. Rajdeo
    S/o Shri Budhan

15. Ram Shankar
    S/o Shri Ganesh

16. Lotan
    S/o Shri Bahadur

17. Hari Kant
    S/o Shri Sudish

18. Shita Ram
    S/o Shri Ramolea

19. Mahendra Rai
    S/o Shri Methur Rai

20. Gonur
    S/o Shri Punkali

21. Jawahar
    S/o Shri JMagdish

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22. Sahdeo
    S/o Birju

23. Shrinarayan
    S/o Shri Bhuta

24. Ram Ashish
    S/o Shri Kuldip

25 Bhagelu Rai
    S/o Shri Shankar Rai

26. Biguraut
    S/o Shri Shankar Rai

27. Hut Sah
    S/o Shri Munshi Sah

28. Achhelal
    S/o Shri Rasham

29. Mahindra DAs
    S/o JagdishDas

30. Kishundeo
    S/o Shri Thaga

31. Banka Raut
    S/o Shio Raut

32. Khalilmia
    S/o Aminmai

33. Badnath
    S/o Shri Mohan

34. Mahesh
    S/o Shri Teni

35. Famuna
    S/o Rekha Sah

36. Babulal
    S/o Shri Nathuni Sah

37. Bindhyachal
    S/o Sakhichand

38. Anandgiri
    S/o Mangal

39. Abdul Majid
    S/o Shri M. Ajeej

40. Jagdish Rai
    S/o Shri Jank Rai

41. Bijay Narayan Pande
    S/o Shri Indrashan Pandi

42. Subhammia
    S/o Mutumia

43. Ram Kishoir Sah
    S/o Ram Lakhan Sah

44. Jawahar Rap
    S/o Shri Kishan Deo

45. Shib Charan Rai
    S/o Bhade Rai

46. Bhikhar Rai
    S/o Shri Debi Rai

47. Gudar Prit
    S/o Shri RAghunath Prit

48. Ramrup Rai
    S/o Shri Kalpat Rai

49. Ramjee Das
    S/o ShriLaxmanDas

50. Ram Atar RAi
    S/o Raje Ram

51. Dineshwar Rai,
    S/o Shri Gayanchand Rai

52. Parama Nand
    S/o Shri Bhola

53. Fulena Sah,
    S/o Shri Bire NanSah

54. Chandeo Sah
    S/o Shri GukliSah

55. Imradeo Raut
    S/o Shri Itshu Raut

56. Usim
    S/o Shri Jaleshwar

57. Bharath Rai
    S/o Shri Lakhan Rai

58. Birbahadur
    S/o Shri Jaymangal Das

59. Rup Narayan
    S/o Shri Gajadhar

60. Ram Chander Mahto
    S/o Shri Shankar

61. Hira Lal
    S/o Shri Chuklhai — Petitioner

(Shri B.S. Mainee)

-Versus-

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1. The Secretary,
   Ministry of Railways,
   Rail Bhawan,
   New Delhi.

2. The GeneralManager,
   North Eastern Railway,
   Gorakhpur.

3. The Permanent Way Inspector,
   North Eastern Railway,
   Narkatia Ganj, Respondents

(By Shri P.S.Mahendra)

ORDER

The facts and circumstances in both the OAs being the same, they are being disposed of by this common order. The applicant in both the OAs claim that they worked for the respondents in both the OAs on the basis of which they are entitled to the grant of temporary status and further that, the respondents having reengaged some of their juniors, they are also entitled to re-engagement and consideration for regularisation.

2. The respondents in their reply have disputed the particulars regarding the precise number of days of service put in by the various applicants. They have in their reply produced their own chart depicting the number of days engagement by each of the applicants. They however admit that all the applicants were dis-engaged on the completion of that work. Accordingly their names have been entered on the live casual labour register and according to the respondents all the applicants will be given re-engagement on the basis of their seniority subject to availability of work. They

also submit that no one junior to them has been engaged except those who were directed to be so engaged by the order of this Tribunal in OA 2929/92.

3. I have heard the counsel. Shri B.S. Mainee, learned counsel for the applicant, in both the cases has vehemently argued that when a junior is given the benefit even in term of a Court order, the seniors have also to be considered. Thus if the respondents have employed and re-engaged the juniors of the applicant on the basis of the Court orders they have to extend the same consideration to the applicants.

4. I have carefully considered this argument. Whie the point made by Shri B.S. Mainee would be relevant in the case of promotions and appointments to regular posts, it cannot automatically be made applicable in the case of casual labourers. One imporant and indispensable condition of re-engagement is that work should be available with the respondents. The respondents have stated that immediate re-engagement of the applicant is not possible due to lack of work. That being so no direction can be given to them to engage casual labourers. The applicants can be considered only when work is available. As the respondents state and the applicants do not deny, the there are a large number of casual labourers whose names are higher up to the applicant in the casual labour register but they are not before me. Therefore no direction can be given that the applicants should be re-engaged in preference to their seniors in the

live casual labour register. In so far the dispute regarding the number of days put in by each applicant is concerned, it cannot be gone into by the Tribunal. The applicant have a certain place in the live casual labour register since 1987. They have not disputed that position till they filed this OA in 1996. Even otherwise therefore this plea in the application is time barred.

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5. In the result both OAs are dismissed. There will be no order as to costs.

(R.K. Ahooja)
Member (A)

Mittal

Attested

(H. C. MITTAL) 4/6/98
Private Secretary
Central Administrative Tribunal
Faridkot House, Copernicus Marg
New Delhi