

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 21TH DAY OF MAY 2009)

PRESENT

HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J

HON'BLE MR S. N. SHUKLA, MEMBER- A

**ORIGINAL APPLICATION NO. 448 OF 1998.
(Under Section 19, Administrative Tribunal Act, 1985)**

1. Shri Ram Kumar Tripathi, Tracer/Plan Recorder, Under Chief S&T, Engineer/Const./N.E. Railway, Gorakhpur.
2. Shri Ghana Nand Mishra, Chaser/Store Issuer under Sr. Section Engineer/(Works/Const./North Eastern, Gorakhpur.
3. Shri Prakash Chand Srivastava, Office Assistant, Under Deputy Chief Engineer/Const./East/North Eastern Railway, Gorakhpur.
4. Shri Virendra Kumar Dubey, Chaser/Store Issuer Under Executive Engineer/Const./Trach, N.E. Railway, Gorakhpur.
5. Shri Tapeswar Nath, Chaser/Store Issuer, Under Deputy Chief Engineer/Const./West/N.E. Railway, Gorakhpur.
6. Shri Rajesh Kumar, Chaser/Store Issuer Under Deputy Chief Electrical Engineer/Const. N.E. Railway, Gorakhpur.
7. Shri Bashisht Tewari, Store Issuer, Under Senior Section Engineer (Sig.)/Cons./N.E. Railway, Varanasi.
8. Shri Satya Nand, Chaser/Store Issuer, Under Deputy Chief Engineer/Const./East, North Eastern Railway, Gorakhpur.
9. Shri Uma Shankar Tripathi, Chaser Under Deputy Chief Engineer/Const./East, North Eastern Railway, Gorakhpur.
10. Shri Ram Phal, Tracer/Plan Recorder, Under Chief Administrative Officer/Const./North Eastern Railway, Gorakhpur.
11. Sri Ashok Kumar Srivastava, Chaser/Store Issuer, Under Deputy Chief Engineer/Const./Survey/North Eastern Railway, Gorakhpur.

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12. Shri Kaishun Ansari, Tracer, Under Deputy Chief Engineer/Const./East/North Eastern Railway, Gorakhpur.
13. Shri Om Prakash Chaser/Store Issuer, Under Deputy Chief Engineer/Const./N.E. Railway, Ballia.
14. Shri Shyam Krishna Srivastava, Chaser, Store Issuer Under Section Engineer (Signal)/Const./North Eastern Railway, Gonda.
15. Shri Krishna Kumar Tripathi, Chaser, Store Issuer, under Senior Section Engineer/(Signal)/Const./North Eastern Railway, Gorakhpur.
16. Shri Ram Brickchh Yadav, Chaser/Store Issuer, Under Senior Section Engineer (Signal)/Const./N.E. Railway, Gorakhpur.
17. Shri Bachan Singh, Chaser/Store Issuer, Under Senior Section Engineer (P.Way) Const. N.E. Railway, Gorakhpur.
18. Sri Ram Nihora Yadav, Store Issuer, Under Deputy Chief Electrical Engineer/Const. N.E. Railway, Gorakhpur.
19. Sri Lallan Pal, Chaser/Store Issuer, Under Deputy Chief Engineer/Const./West/N.E. Railway, Gorakhpur.
20. Shri Rajesh Kumar Sharma, Typist Under Assistant Engineer/Const. N.E. Railway, Lucknow.
21. Shri Bhagwat Prasad, Chaser/Store Issuer, Under Deputy Chief Engineer/Const. N.E. Railway, Lucknow.
22. Shri Ram Swarath Thakur, Chaser/Store Issuer, Under Senior Section Engineer (P. Way)/Const. N.E. Railway, Samastipur.
23. Shri Ram Prasad Shah, Chaser/Store Issuer, Under Senior Section Engineer (P.Way) Const., N.E. Railway, Samastipur.
24. Shri Manik Lal Deonath, Chaser/Store Issuer, Under Distl. S & T. Engineer/Const./N.E Railway, Samastipur.
25. Shri Kamta Singh, Chaser/Store Issuer, Under Senior Section Engineer (P. Way) North Eastern Railway, Shahpur Patora.
26. Shri Anil Kumar Sinha, Chaser, Store Issuer Under Senior Section Engineer (P.Way) (Cons), N.E. Railway, Samastipur.

.....Applicants

By Advocates: Shri R.C. Pathak/Shri R.P. Srivastava

Versus.



1. The Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The General Manager (P)/Chief Personnel Officer, North Eastern Railway, Gorakhpur.
3. The Chief Administrative Officer (Cons.), North Eastern Railway, Gorakhpur.

.....Respondents

By Advocate: Shri P. Mathur.

ORDER

(DELIVERED BY JUSTICE A.K. YOG, MEMBER JUDICIAL)

Heard Shri R. C Pathak, Advocate appearing on behalf of the applicant and Shri P. Mathur, Advocate appearing on behalf of the respondents.

2. Applicants (26 in number) claim to be Tracer, Plan Recorder, Office Assistant, Chaser, Store Issuer and Typist working with different Zone namely Gorakhpur, Gonda, Lucknow (within U.P) and at Samastipur (Bihar) falling under East Central Railway, Headquarter at Hazipur. Apparently all applicants could not be joined together as they have different facts and different dates requiring for deciding their grievance raised in the present O.A.

3. At the outset, we may note that this O.A. was filed in the year 1998. Apart from other contentions, it is contended that applicant NO.1 submitted representation dated 12.1.1998



(Annexure A-8/Compilation I to the O.A) to General Manager and reminders dated 12.1.1998 (Annexure A-9/Compilation I to the O.A) but no heed was paid by the concerned Authorities and hence the O.A. We are informed by the learned counsel for the parties that above Representation has not been decided till date.

4. Para 8 contained relief (s) claimed in the O.A. reads:-

“Relief sought:

In view of the facts explained in para 4 and 5 mentioned above, the applicants prays for the following reliefs:-

- (i) C.A.O (C)/letter No.E/27/BG/ Screening/Chan /Part I dated 31st December, 1997 be quashed and a Mandatory writ be issued to the respondents to regularize the services of the applicants in Class III service from the date on which they completed 5 (five) years service in class III post as directed by the Supreme Court in similar case and allowed consequential benefits thereon.
- (ii) to pay the cost of the Suit.
- (iii) Any other relief as deemed fit by the Hon'ble Tribunal”.

5. According to the applicant, they were engaged as Casual Labourers to discharge different duties pertaining to different post/pay-scales falling under Group ‘D’ and in due course, they were required to discharge duties pertaining to Group ‘C’ on stop-gap/temporary arrangement- to facilitate day to day functioning of their respective Department/s Units also.

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6. Learned counsel for the applicant submits that the applicants, if working against pots-in Group 'C' have completed five years-eligible/entitled to be regularized in Group 'C'- in view of Circular issued by Railway Board from time to time and enforce at relevant times. In support of his contention, he has places reliance on the case of *Ram Kumar and others Vs. Union of India and others- 1996 (1), All India Services Law Journal Vol. 59 page 116*. Photostat copy of said judgment is also annexed as Annexure A-2 for compilation II.

7. Applicant fails to place requisite pleadings/material for our perusal to ascertain as to whether applicants were ever screened and found eligible or otherwise held Group 'D' post on regular basis- before they were given chance to work- 'stop-gap basis'- on post in Group 'C'. There is no dispute or quarrel on the ratio- laid down by Apex Court in the case of Ram Kumar (supra). It is clear that unless persons (like the applicants) are initially regularized in Group 'D', they cannot jump and seek regularization- over posts in Group 'C' by virtue of working on temporary basis or stop gap arrangement.

8. It is evident from the ordersheet that when O.A. was filed, the applicants and their counsel did not show promptness to pursue their case. At one stage an amendment

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application (M.A. NO. 3376/2004) was filed, which was allowed vide order dated 11.3.2005 but amendment/s were not carried out for more than 3 years.

9. We also notice that the applicant Nos. 20 to 26 belong to entirely different units and zones of the Railways. Their Competent Authorities establishments are different and their claims depend upon different set of facts. Not only this, about 10 years have already elapsed.

10. Many of the contention/s of the applicants reliefs have lost efficacy by passage of time and subsequently development. We are alive to the situation that while considering the contention of the applicants will be required to be examined which is not possible for the Tribunal in the present O.A.

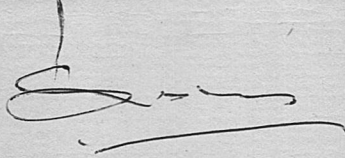
11. In view of the above and the totality of the circumstances of the instant case, we direct the applicants to file a parawise comprehensive representation (raising their grievance regarding regularization in Group 'D'/'C') alongwith a copy of the O.A. (with all Annexures) and a certified copy of this order within 4 weeks from today before concerned Competent Authority who, shall decide said representation, (provided it is filed as stipulated/contemplated above) by passing a reasoned and speaking order in accordance with relevant Circulars, Rules etc. within 3 months of receipt of the



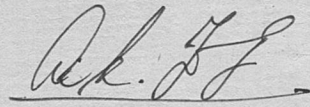
Representation (as indicated above). Decision taken shall be communicated to the applicant forthwith.

12. O.A. is disposed of subject to the above directions/observations.

No cost.



Member (A)



Member (J)

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