

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 5/6 day of April 2005.

QUORUM : HON. MR. D. R. TIWARI, A.M.

O.A. NO. 552 of 2004

1. Hari Shankar, aged about 42 years, Son of, Lal Bihari R/O Village Bankat Morh, District Sant Ravidas Nagar.
2. Munni Lal, aged about 43 years, Son of Ram Nihor, R/O Village and Post Janghai Bazar, Tahsil Machhali Shahar, District Jaunpur.
3. Mool Chand, aged about 42 years, Son of Hari Shankar Yadav, R/O Village Badaulipur Suriyawan, Sant Ravidas Nagar.
4. Kapoor Chand Yadav, aged about 42 years, S/O Shiv Charan, R/O Village Badaulipur Suriyawan, District Sant Ravidas Nagar.
5. Manik Chand, aged about 40 years, S/O Ram Sarwar, R/O Village Badaulipur Suriyawan, District Sant Ravidas Nagar.
6. Mool Chand, aged about 46 years, S/O Ghinahu, R/O Village Chakchanda Suriyawan, District Sant Ravidas Nagar.
7. Sabhajeet, aged about 43 years, S/O Mata Saran, R/O Village Kastooripur Suriyawan, District Sant Ravidas Nagar.
8. Banshi Lal, aged about 48 years, S/O Ram Baran, R/O Village and Post Kastooripur, District Sant Ravidas Nagar.
9. Raj Deo Yadav, aged about 45 years, S/O Ram Dular, R/O Village Dulahipur Chhatrashahpur, P.O. Dashrathpur, District Sant Ravidas Nagar.
10. Dashrath, aged about 47 years, S/O Chhathoo, R/O Village Maniganj, P.O. Suriyawan, District Sant Ravidas Nagar.
11. Shambhoo Nath, aged about 42 years, S/O Jag Nandan, R/O Village Bauliapur, P.O. Janghai, District Jaunpur.

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12. Shitla Prasad, aged about 42 years, S/O Jiyawan, R/O Village Malepur, P.O. Bhadohi District Sant Ravidas Nagar.
13. Ram Dhani, aged about 49 years, S/O Ram Narain, R/O Village Aswan, P.O. Janghai Bazar, Machhali Shahar, Jaunpur.
14. Ram Shiromani, aged about 50 years, S/O Ram Dular.
15. Narottam, aged about 45 years, S/O Muse.
16. Dhan Raj, aged about 46 years, S/O Bhagauti.
17. Ram Shiromani, aged about 41 years, S/O Jag Nandan, R/O Bauliapur Mauja Semar Tah. Machhalishahar District Jaunpur.

.....Applicant.

Counsel for applicant : Sri R. C. Tripathi.

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Lucknow Division, Lucknow.
3. Karmik Assistant Engineer, Northern Railway, Hajratganj, Lucknow.

.....Respondents.

Counsel for respondents : Sri P. Mathur.

ORDER

BY HON. MR. D.R. TIWARI, A.M.

By this O.A. filed under Section 19 of the A.T. Act, 1985, the applicants have prayed for issuance of direction to the Respondents for reengagement of the applicants coupled with the direction to the authorities concerned to place the applicants above the juniors, who have been reengaged after discharge of the applicants.

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2. Briefly stated, the applicant has been appointed on the post of Gagman on different Railway Stations in different years. For this purpose, he has been given service records and certificate for working days (Annexure-2). He submitted that he has worked for more than 240 days and received salary for the working period. Since under rule 4(5) of the C.A.T. Procedure Rules, some other applicants have been allowed to join in this O.A. as the cause of action and the relief sought were similar, some of the applicants have also given the copies of the certificates, issued by the Respondents for the number of days they have worked in the organization of the Respondents. It has been alleged that some of their ex-colleagues, who have been reengaged, were also junior to the present applicants. Vide Para 4 of the O.A., names of the junior persons have been given, who were reengaged. They have annexed in some cases the certificate to the effect that they have worked for various numbers of days which are available at pages 12, 13, 14 and 15. Records of other persons have also been enclosed with the O.A.

3. It has been submitted by the applicants that in pursuance of circular letter dated 21.5.2003, they have applied to the Divisional Manager (Personnel), Northern Railway, Lucknow. The said circular, it is submitted by the applicants that was for the purpose of regularization of the ex-casual labours, who have not so far been regularized. The circular further provided that it would apply to those casual labours, who have put in 120 days of work up to 31.5.2003. The circular further provided that only those should apply, whose names figure in the Live Casual Labour/Supplementary Live Casual Labour Register. The case of the applicants is that they have filled in the proforma and have submitted the applications before the date prescribed for the purpose i.e. up to 23.6.2003. After submitting the application for their screening/regularization, they have submitted one

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joint representation dated 30.3.21004 and that is also pending with the Competent Authority.

4. The respondents have filed the short counter affidavit as well as the counter affidavit to resist the claim of the applicants. They have not been able to file the detailed para-wise comments on the averments of the applicants as the records annexed with the O.A. were not available with them. They have endeavoured to challenge the contention of the applicants and have stated that the applicants had no case for their being called for screening/regularization in the Respondents' organization.

5. During the course of the argument, Sri P. Mathur, Counsel for the respondents submitted that the certificate for working days, issued by various lower category officials is not the practice in Railways. He has challenged the veracity of the casual labour cards being issued by the officials of the Respondents' organization. He has also submitted that even if it is accepted that the records annexed with the O.A. are accepted to be true, they cannot be granted any relief claimed by them. He has been able to demonstrate that none of the applicants had worked with the Respondents' organization after the year 1980. He further argued that the maximum age limit for appointment/regularization of ex-casual labour is 40 years (for general category) and 43 years (for OBC/SC/ST category). From the certificates and the casual labour cards submitted by the applicants, he was able to prove that most of the applicants were already over aged. He has also contested the claim of the applicants that in pursuance of the circular dated 21.5.2003, submission of the application was irregular in as much as none of the conditions were fulfilled by the applicants. He has also submitted that they were required to give their serial number in case their names were in the Live Casual Labour Register. He also contended that entering of names in the Live

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Casual Labour Register is not a continuous cause of action and they cannot insist that their names must be entered in the Live Casual Labour Register if it has not been done earlier. For this contention, he relied on the decision of Delhi High Court (FB) in the case of Jagdish Prasad Vs. Union of India and others - 2002 (3) UPLBEC 2060.

6. Counsel for the applicant Sri R.C. Tripathi submitted that he was not in possession of the Casual Labour Cards issued to them. He also stated that whatever papers have been annexed with the O.A. were not the manufactured one and they have certainly been issued by the officials of the Respondents' department. He argued very emphatically that in case of the doubt, this could be verified from the officials, who have issued the service certificates and casual labour cards. He also submitted that in making application for screening/regularization in pursuance of the circular dated 21.5.2003, the applicants were not at fault. If they were not entitled for making applications to the Competent Authorities, they could have been told then and there and their applications should not have been entertained. Even if they were not fulfilling the condition of the circular and the same have been entertained by the Respondents' organization, some action should have been taken. He has also argued that the joint representation given by the applicants should have been considered by this time and they would have been given appropriate reply in this regard.

7. I have heard rival submissions of the counsel for the parties and perused the records very carefully.

8. Having heard the rival submissions, made by the counsel for the parties, I am of the considered view that the ends of justice would be better served if a direction is issued to the Competent Authority to

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consider and decide the joint representation of the applicants by a reasoned and speaking order within a stipulated period of time. Accordingly, a direction is issued to the Respondent No.2 to consider and decide the representation of the applicants in accordance with law by a reasoned and speaking order to be passed and communicated to the applicants within a period of three months from the date of receipt of a copy of this order.

9. The O.A. is disposed of in terms of the above direction.

10. Cost easy.

A.M.
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