

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 28<sup>th</sup> day of SEPTEMBER 2007

Original Application No. 918 of 2004

Hon'ble Mr. P.K. Chatterji, Member (A)

Gaurkaran Prasad, S/o Sri Mewa Lal, R/o Ghaksa Hussain  
Tappa Tehsil Sadar, Distt: Gorakhpur.

. . . .Applicant

By Adv: Sri H.P. Mishra & Sri T.N. Tripathi

V E R S U S

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. Chief Administrative Officer, B.G. Construction North Eastern Railway.
3. Chief Engineer Bridge Gauge Construction, North Eastern Railway, Gorakhpur.
4. Chief Personnel Officer, North Eastern Railway, Gorakhpur.

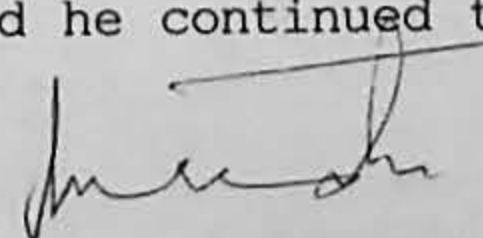
. . . .Respondents

By Adv: Sri K.P. Singh

O R D E R

The request of the applicant in this OA is for entering his name in the Live Casual Labour Register (in short LCLR) which was constructed by the respondents as per Railway Board's direction dated 11.05.1999 and secondly regularization of the applicant as departmental employee.

2. The facts of the case in brief are that the applicant was engaged as casual labour (Khalasi) on 27.10.1981 by the respondents and he continued to work

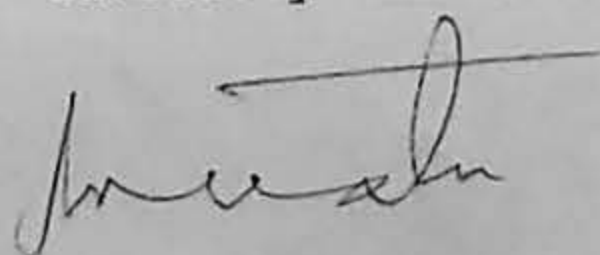


as such upto 18.08.1981 and thereafter, his services were not utilized by the respondents. It is further stated by the applicant in the OA that the Railway Board issued direction dated 11.04.1999 to the Zonal Railways for preparing LCLR unit wise in respect to all the casual labours engaged for a period exceeding to 120 days.

3. The LCLR was prepared by all the concerned units. However, the applicant did not find his name figuring in the LCLR of the concerned unit. The applicant further says that while his name did not figure in the list, names of many other who were engaged at about same time figured in the LCLR (some of whom worked less than the applicant). LCLR which was prepared on the basis of the direction of the Railway Board was finally published in the year 2004. In the same also the name of the applicant did not figure. Thereafter, this OA was filed seeking the following reliefs:

- "i. That this Hon'ble Tribunal be pleased to issue direction to the respondents to enter the name of the applicant in the live register maintained by respondents.
- ii. That this Hon'ble Tribunal be pleased to direct the respondents to accommodate/appoint to the applicant on appropriate post and his seniority may be deemed his commenced since 1981.
- iii. That this Hon'ble Tribunal be pleased to pass any other and further orders as it may deem fit and proper in the circumstances of the case and
- iv. award cost."

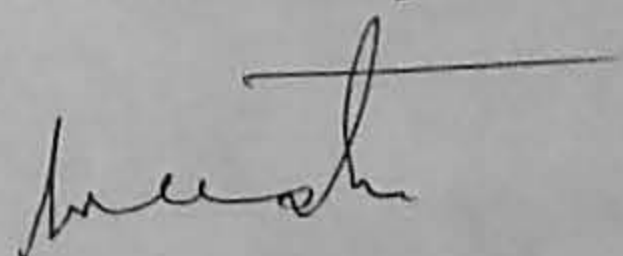
4. On the basis of the direction of the Tribunal dated 14.11.2005 the respondents considered the representation of the applicant favorably and decided





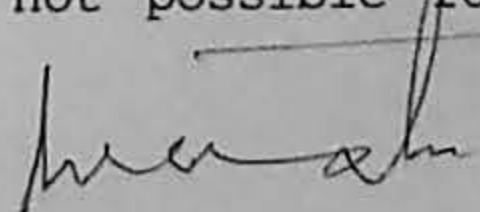
to enter his name into LCLR at Sl. No. 361. This has been stated in the Suppl. CA which has been filed by the respondents in this OA and the order is dated 19.01.2006 (Annexure 1 to the Suppl. CA). In this order it has been stated that the applicant's name was in the LCLR dated 01.04.1985. However, at the time of preparing the LCLR on the basis of the Railway Board's direction dated 11.05.1999, his name could not be included for no fault of the respondents. Before preparation of the list a notice was issued in daily news paper inviting all casual labours who fulfills criterion given in the notice itself to appear before the appropriate authority with testimonials of their service to enable the respondents to ascertain their eligibility and then enter their names in the LCLR. However, the applicant did not turn up against the notice and, therefore, it was not possible for the respondents to enter his name in the LCLR.

5. The respondents have further clarified that after the direction of this Tribunal as mentioned above they considered his case sympathetically and on the basis of the records available his name was included in the LCLR at Sl. No. 361. The learned counsel for the applicant, however, says that he was unable to present himself as per notice because he was not aware of the same being an illiterate person. Moreover, his contention is that he already made several representations before the respondents for including



his name in the LCLR in which all the details were indicated. Therefore, the onus was on the respondents to act upon the representation and enter his name in the LCLR. For the omission on the part of the respondents his name was not included at the appropriate time. In consequence he could not be considered for regularization. Not only that he was also not engaged as casual labour from time to time as many others who had earlier worked with him, having put in less service as casual labour, got the benefit. Therefore, the applicant is aggrieved that due to mistake committed by the respondents he missed the opportunity for being considered for regularization at the right time. His plea is that the respondent who committed the mistake at the time of preparing the LCLR as per direction on 1999 should consider his suitability for regularization with reference to the other casual labours who had worked with him in the year 1981 and whose names were included in the LCLR of 1999.

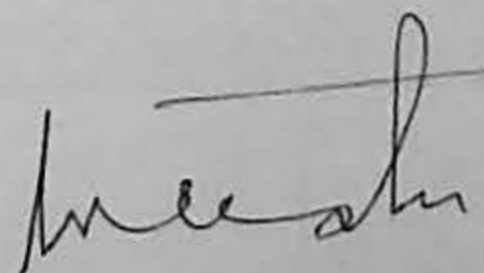
6. This however, has been contradicted by the respondents in their submissions. At the time of arguments learned counsel for the respondents stated very categorically that the mistake was not of the respondents, but of the applicant who failed to turn up before the appropriate authority alongwith evidence of service as casual labour against the notice in the daily news paper. It was obviously not possible for





the respondents to search for the records of a huge establishment of casual labours to assess the suitability of those casual labours, many of whom had worked even for a period of less than a month. The number of such representations which the respondents have to deal with is enormous. That is specifically the reason why the notice was given in the daily newspaper to facilitate personal appearance of all ex-casual labours who considered themselves eligible as per criteria given in the notice. If the applicant failed to turn up there was nothing that the respondents could do about it.

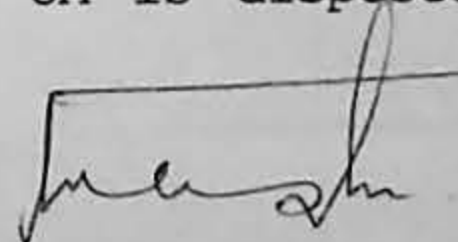
7. In spite of this situation, the respondents have shown a lot of consideration and sympathy and although there was no specific direction of the Tribunal to include his name in the LCLR vide order dated 14.11.2005, suo-moto the respondents have done this. This shows that they have treated the applicant very sympathetically. However, it is not possible to accept the claim of the applicant that his position in the LCLR should be revised as if it was entered at the time of initial preparation of the list on the basis of direction of the Railway Board in the year 1999. That would amount to revising the list in such a way as could adversely affect the interest of many others, obviously it would not be possible.



8. Learned counsel for the respondents has further stated that the main relief (relief No. 1), which has been prayed for, has already been granted by the respondents suo-moto. Learned counsel has also assured that as the letter dated 19.01.2006, the applicant will be engaged as casual labour in his turn when ever vacancy arise for such work.

9. Having heard the learned counsel for both the parties and after perusing the pleadings I am of the view that the respondents did not make any mistake of omission pr commission. The reasons given by the respondents for his inability to personally present with his case is also not convincing. The personal appearance of the applicant with testimonials of his service was must for being considered for entry in the LCLR. The failure of the applicant cannot be attributed to the respondents. I am, therefore, unable to provide the relief as prayed for by the applicant. The OA is disallowed. However, as assured by the learned counsel for the respondents at the time of arguments hopefully the applicant will find opportunity for working as casual labour in his turn according to the LCLR as vacancy arises.

10. With the above direction the OA is disposed of.  
No order as to costs.



Member (A)