

CENTRAL ADMINISTRATION/REGONAL
High Court Bar
Delhi Bar

C. ~~contd~~ Review/ Writ No

In

O. A. No./T. No.

6759/1989

Date of decision 7/1/2000

Ram Nitkuri & Others

Applicant(s)

Sri Anand Kumar

Counsel for the
Applicant(s)

Versus

Union of India & Others

Respondent/Upp.
Party

Sri P. Mathur

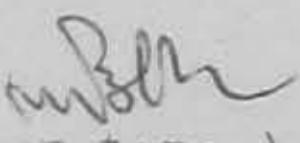
Counsel for the
Respondents/Upp.
Party

COURT

Hon'ble Mr. M.P. Singh V.C./Member (A)

Hon'ble Mr. _____ Member ()

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether their Lordship were to see the fair copy of the judgment ?
4. Whether to be circulated to all Benches ?


(signature)

/M.M./

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 7th day of January, 2000.

Original Application no. 675 of 1989.

Hon'ble Mr. M.P. Singh, Administrative Member.

1. Ram Nithur, son of Sri Sahadev,
R/o Village Nankathi, Post Office Jigna,
Distt. Mirzapur,
Temporary Gangman under DEN/Northern
Railway Mirzapur.
2. Bhuvaneshwar, S/o Sri Ram Kishun,
Temporary Gangman under DEN, Northern Railway
Mirzapur, R/o Bijri Post Office Churk, Distt.
Soneshahra.
3. Jokhan, S/o Sri Raghurai, R/o Village Parhi,
Post Office Madhupur Distt Mirzapur.
4. Vishwanath, S/o Sri Dudul, r/o Village Parhi,
Post Office Madhupur, Distt. Mirzapur.
5. Bhalai, S/o Shri Sahadur, Casual Gangman under
DEN/Northern Railway, Mirzapur, r/o Village Pahari,
Post Office Pahare, Distt. Mirzapur.
6. Ram Ujagir, S/o Sri Hoob Lal,
r/o Village Khara, Post Office Sri Niwas Dham,
Mirzapur.
7. Prem Shanker, S/o Shrinath, Casual Gangman under
DEN/Northern Railway, Mirzapur, r/o Village Jasa,
Baghaura, Post Office Vijaipur, Distt. Mirzapur.
8. Nanhoo, S/o Sri Sukhram, r/o Village Dhaurahara,
Post Office, Vijaipur, Distt. Mirzapur.
9. Manna Lal, S/o Sri Bhikhi, R/o Village Darveshpur,
Post Office Bisauri, (Chandauli), Varanasi.

10. Puranmasi, S/o Sri Munni Lal,
R/o Village Paijakapar, Post Office,
Chhota Mirzapur, Distt. Mirzapur.
11. Budhi Ram S/o Shri Shivbaran,
R/o Village Raibari Post Office Baghaura,
Distt. Mirzapur.
12. Ramdev, S/o Sri Mata Prasad,
r/o Village Bhatevra Post Office Gaipura,
Distt. Mirzapur.
13. Anant Prasad, S/o Sri Baldev Prasad,
Casual Gangman under DEN/Northern Railway
Mirzapur, R/o Village Neawda Gopalpur, Post Office,
Gajipur, Distt. Azamgarh.
14. Nanhakoo, S/o Sri Shiv Baran,
R/o Village Raibari, Post Office, Baghaura,
Distt. Mirzapur.
15. Panchu S/o Sri Sukaloo, r/o Village Khairahi,
Post Office Khairahi, Distt. Mirzapur.
16. Chhabinath, S/o Sri Jirur, R/o Village Pahara Post
Office Pahara, Distt. Mirzapur.
17. Jiyut Lal, S/o Nidalu, R/o Village Basani,
Post Office Janso Ki-Madai, Distt. Varanasi, Ty.
Gangman under DEN/Northern Railway, Mirzapur.
18. Taulan, S/o Sri Mata Saran, Casual Gangman under
DEN/Northern Railway, Mirzapur, R/o Village Kothra
Mirsan, Post Office Srinivas Dham, Distt. Mirzapur.
19. Jagardev, S/o Sampat, R/o Village Raikari, Post
Office Baghaura, Distt. Mirzapur.
20. Rampati, S/o Sri Mahesh, R/o Village Raikari,
Post Office Baghaura, Distt. Mirzapur.
21. Ram Lochan, S/o Sri Manesh.
22. Jokhu S/o Hari Lal,
Both residents of Village Raikari,

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23. Post Office, Baghaura, Mirzapur.
23. Shripal, S/o Hoob Lal, r/o Village Gosai, Das-Ka-Pura, Post Office, Bihsara, District Mirzapur.
24. Vishwanath, S/o Sri Lodhur, r/o Village Kushaha, Post Office Kushaha, Distt. Mirzapur.
25. Doodhnath, S/o Sri Raja Ram, r/o Village Puranazim Post Office Nai Bazar, Distt. Mirzapur.
26. Babu Nandan, S/o Sri Sukaloo, r/o Village Darveshpur, Post Office Vishauri, (Chandauli) Distt. Varanasi.
27. Ram Sewak, S/o Sri Ram Casual Gangman under DEN/Northern Railway Distt. Mirzapur. R/o Village Koraria Post Office Chandauli, Distt. Varanasi.
28. Mithai Lal, S/o Sri Ram Nath, R/o Village Babbani, Post Office Jigna, Distt. Mirzapur.
29. Rajmani, S/o Gokhul Prasad, Ty, Gangman under DEN/Northern Railway Mirzapur., r/o Gorasar Pandey, Post Office Gaipura, Distt. Mirzapur.

All applicants as mentioned above were last employed under AEN/Now DEN) Northern Railway, Mirzapur.

... Applicants.

C/As Shri Anand Kumar

Versus

1. Union of India, through General Manager, Northern Railway, Baroda House New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.

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3. Divisional Engineer (DEN) Northern Railway, Mirzapur.
4. Secretary, (Establishment) Railway Board, Rail Bhawan, New Delhi.

... Respondents.

C/Rs Shri P. Mathur.

O R D E R

Hon'ble Mr. M.P. Singh, Member-A.

The applicants were appointed by the Railway Administration under PWI/IOW at Mirzapur, Chunar and Churk. According to the applicants, they were appointed prior to 01.08.1978 on which date the Railway Board put a ban on recruitment of fresh casual labour. Most of them were allowed to work after 01.08.78, but they were retrenched after some time without showing reason or serving a show cause notice. They have worked for more than 120 days and attained the status of temporary railway servant in terms of para 2501 (B) (i) of the Indian Railway Establishment Manual.

2. They have sought following reliefs:-

- a. the Hon'ble Tribunal may kindly issue directions to absorb the applicants against temporary status or regular group 'D' category posts under control and supervision of the respondent no. 2 in compliance of the directives given by the Railway Board as well as by the Hon'ble Supreme Court.
- b. the respondents may also kindly be directed to do screening of all the applicants against the short-fall (Scheduled caste & Scheduled Tribes vacancies) group 'D' category posts and include their names in this panel after screening as all the applicants

belong to Scheduled Caste community.

b(i) The Hon'ble Tribunal may kindly direct the respondents to place the names of the applicants over the junior persons who have been placed in the screening panel dated 17.08.1989 and 03.02.1990.

3. The applicants have stated that their names were registered in the Casual Labour Live Register for re-engagement by the respondents as per instructions contained in the General Manager (P) Northern Railway, New Delhi letter no. 220E/190-XII-V/EIV dated 20.08.1987.

They have also stated that due to ban on fresh intake of casual labourers imposed by the Railway Board on 01.08.78, the Railway Board emphasised the curtailment of casual labourers by the process of decasualisation, absorption against the regular vacancies and re-sorting to contractual agencies for doing additional work.

However, the respondents did not follow this policy and retrenched the applicants. They have also alleged that the respondents have allowed to work their juniors under them as casual labourers. The applicants are poor Scheduled Caste casual labourers and they are entitled for special protection against reservation quota for SC/ST. Most of the applicant have also appeared in the screening against the short falls of SC/ST which was held in October 1988.

4. The respondents have stated that the cause of action accrued to the applicants ~~before~~ 10 to 11 years back whereas the instant application has been filed before the Tribunal in the year 1989. This applicantion is, therefore, not within limitation as prescribed under section 21 of the Central Administrative Tribunal Act,

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xii, of 1985. They have also stated that in view of specific directions as conferred after procurement of the Hon'ble Supreme Court's judgment, the name of the applicants are duly entered in the Live Casual Labour Register and the same had been entered on the basis of the total number of working days put in by each of the candidate as casual labour as per rules. The regularisation on the basis of Live Casual Labour Register is done on the basis of the various instructions issued by the Railway Board. Their regularisation will be considered as per their turn after due verification by the Competent Authorities. The respondents have also stated that no junior persons to the applicants had been regularised or are working as casual labour.

5. Heard Shri Anand Kumar learned counsel for the applicant and Shri P. Mathur learned counsel for the respondents.

6. As regards the limitation, the Principal Bench, New Delhi has held in Hukum Singh Versus Union of India and others, 1993 ATC 747 that the process of engagement of casual labourers borne on the Live Casual Labour Register is a continuous one and non engagement of such a casual worker would be in the nature of a continuous cause of action.

7. The letter issued by the General Manager, Northern Railway dated 04.04.86 to the D.R.M. Allahabad, inter alia mentions that while screening it should be ensured that labour engaged prior to 01.08.1978 are not left out and are given priority (Annexure RA-1).

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8. In view of the facts and circumstances of the case, the applicants are entitled to succeed. I, therefore, order and direct as follows:-

- a. The names of the applicants shall be entered in the Live Casual Labour Register in accordance with the seniority on the basis of period of service already admitted by the respondents.
- b. The applicants shall be engaged in preference to their juniors and outsiders and their cases shall be considered for regularisation in accordance with their seniority in the Live Casual Labour Register.

9. There shall be no order as to costs.

Mish
Member A

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