

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 2nd day of April, 1997

Original Application No. 449/1992

District : Gorakhpur

CLAIMS -

hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. S. Das Gupta, A.M.

1. Sri Chandrika S/o Sri Bhullan
2. " Kamrul Haque S/o Sri Karimullah
3. " Ram Deo S/o Sri Ambar
4. " Lakshmi Niwas Shukla S/o Sri Shiv Prasad Shukla
5. " Jairam S/o Subhanand
6. " Jagdish S/o Sri Ram Bharosa
7. " Ram Nayan S/o Sri Rajdeo
8. " Ram Ashish S/o Sri Buddhu
9. " Sugriv S/o Sri Ram Saguwa
10. " Bajrangi Mishra S/o Ram Karan Mishra
11. " Baboo Ram S/o Sri Bhagawati
12. " Baijnath S/o Sri Lakshman Thakur
13. " Ram Sanware S/o Sri Gajraj
14. " Paras Nath S/o Sri Banshi
15. " Pramod Kumar Sinha S/o Lakshman Prasad
16. " Molashoo S/o Sri Faujdar
17. " Rajendra S/o Sri Ram Lal
18. " Lalsa S/o Sri Banshi
19. " Sugreev S/o Sri Chandra Bali
20. " Rajool S/o Sri Majhar Ali
21. " Bechan S/o Sri Raj Kumar
22. " Sudarshan S/o Sri Buddhu Prasad
23. " Kapil Deo S/o Sri Ram Dulare
24. " Jitenra S/o Sri Jokhan
25. " Lallan Prasad S/o Sri Ram Pyare
26. " Ram Narain Maurya S/o Sri Jaddu Prasad
27. " Ravish Chand S/o Sri Paras Nath
28. " Ganpat S/o Sri Algoor
29. " Rafeek S/o Sri Gaphoor
30. " Shreekanth S/o Sri Kashi
31. " Raj Kumar S/o Sri Patan Deen

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32. Ram Velas S/o Sri Sawadi
33. Shyam Lal S/o Sri Khelawan
34. Shani Ram S/o Sri Bhagwati
35. Ram Milan S/o Sri Raja Ram
36. Sant Raj S/o Sri Mata Badal
37. Ram Bachan S/o Sri Shoharat
38. Pramod Kumar S/o Sri Lakshmi Narain
39. Prahlad S/o Sri Chhotey Lal
40. Samai S/o Sri Ram Prasad
41. Ram Nath S/o Banwari
42. Daroga S/o Sri Sadhai Ram
43. Dev Narain S/o Sri Mangarao
44. Ratti S/o Sri Gulaichi
45. Raja Ram S/o Sri Agarao
46. Gorakh Nath S/o Sri Kanhaiya Lal
47. Shiv Shankar S/o Sri Kanhaiya Lal
48. Ram Hit S/o Sri Ram Pyare
49. Bheem S/o Sri Harihar
All working as ~~Type~~ Scale Khalasi
under Chief permanent Way Inspector (East),
N.E.Railway, Gorakhpur.
In the Office of Assistant Engineer (West)
N.E. Railway, Gorakhpur.
(By Sri Anil Kumar, Advocate)

..... Applicants

Versus

1. Union of India through General Manager(P)/C.P.O
N.E. Railway, Gorakhpur.
2. Divisional Railway Manager (P),
N.E. Railway, Lucknow.
3. Assistant Engineer (West),
Open Line, N.E. Railway, Gorakhpur.
4. Chief Engineer,
E.S. Construction, N.E. Railway,
Gorakhpur.

(By Sri A.V. Srivastava, Advocate)

..... Responder

for

ORDER (Oral)

ORAL (Oral)

By Hon'ble Mr. Justice B.C. Saksena, V.C.

Heard learned counsel for the parties.

2. Through this ~~CA~~ the applicants challenged an order dated 30-12-1991 / 2-1-1992 (Annexure-A-1) by which a Combined Seniority List of Project Labours of B.C. Construction and Open Line Staff under the Assistant Engineer (west) has been prepared.

3. Learned counsel for the applicants submitted that ~~seniority list is~~ ^{The Seniority list is} contrary to the provisions of Para 2501 of the IREM. Though this bald plea has been taken in the CA and has been ~~urged~~ ^{urged} at the bar by the learned counsel for the applicant, on our pointed query that as to how that provision has been violated, the learned counsel for the applicant was unable to indicate. The learned counsel for the applicant then submitted that the seniority list in which the applicants who are Open Line Casual Labours have been merged with Project Casual Labours and have been assigned seniority below casual labours and thus because of wrong assignment of seniority in the Combined Seniority List, they have been prejudiced. We have perused the seniority list in the light of the submissions made by the learned counsel for the applicant. Learned counsel for the respondents placed for our consideration the Circular letter dated 11-9-1986 as also the letter dated 12/22-8-1975 and the Circular dated 10/13-10-1986. In Para 4 of the first Circular, the provision has been made as to how and in what manner B.C. Construction will be considered for absorption after screening by Open Line Division/unit on the basis of combined seniority. The applicants who were working in the Civil Engineering project and the Project Labours have been indicated to be absorbed depending on the completion of the work who were working with the open line units as per \ ^{Recd}

circular dated 13-10-1986. An illustration has been given indicating the principle for distribution for open Casual Labours and ~~for~~^{Their} absorption. Detailed distribution is indicated and there is no material in the ~~DA~~ to show that the principle laid down in the said two circular letters have been violated and if so in what manner. On the basis of the material and pleadings of the applicant, it is difficult to hold that the combined seniority list has not been rightly prepared in accordance with various circular letters and guidelines.

4. On the contrary we find that the pleadings of the applicant and the grounds taken by them in the ~~DA~~ are based on some misconception. The applicants have taken a plea that the Hon'ble Supreme Court in ~~its~~ decision in the case of Indra Pal Yadav Vs. Union of India and Ors. ~~had directed~~ did not for preparation of a combined seniority list. This is entirely incorrect. We have perused the decision of the Hon'ble Supreme Court in the case of Indra Pal Yadav's case. The second ground taken in the ~~DA~~ is that the project casual labours and open line staff constituted separate unit. This again is wholly misconceived.

5. The applicants have challenged the seniority list but they have not chosen to ~~indicate~~ ^{impeach} any of the project casual labours who have been assigned seniority over them. In the absence of this, it would not be proper to exercise jurisdiction to interfere with the combined seniority list.

Reh

6. For the reasons indicated hereabove, we find no merits in the ca. The same is, therefore, dismissed accordingly, leaving the parties to bear their own costs.

Member (A)

Vice Chairman

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