

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

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O.A. No.73/92

Baij Nath & Others ::::::::::: Applicant

Vs.

Union of India & Others, ::::::::::: Respondents.

Hon.Mr.Justice U.C.Srivastava, V.C.

Hon.Mr. K. Obayya, A.M.

(By Hon.Mr.Justice U.C. Srivastava,V.C.)

The applicants who are 190 in number have approached this Tribunal praying that a mandamus be issued directing the respondents to open a Live Casual Labour Register in the Town Engineer, Gorakhpur Area, North Eastern Railway, Gorakhpur, reflecting the seniority and further directions be issued to them not to give any employment to Casual Labourers of other units and to take work from the present applicants.

2. These applicants worked for more than 240 days as Casual Labourers and acquired a temporary status, but due to non-maintenance of Live Casual Labour Register they were not being given job again and persons juniors to them were being employed from time to time and they are being absorbed on regular basis. Although the Railway Board has also issued a directive for maintaining a Live Casual Labour Register, the respondents are not complying with the directive. The applicants have made representations in this behalf but the same has not brought any result and that is why they have approached

this Tribunal. A reference has been made to the Railway Board's letter dated 4-3-1987, a copy of which has been placed on record, addressed to all the General Managers of Indian Railway and others in which it has been directed that the Ministry of Railways desire that opportunity may be given to open line Casual Labourers also who were discharged before 1-1-1981 for want of work or completion of work, for considering inclusion of their names in the Live Casual Labour Register and the last date for receipt of application, complete in all respects, was mentioned as 31-3-1987. It was thereafter, the Deputy Chief Engineer, Gorakhpur Area, North Eastern Railway, Gorakhpur, <sup>D.O.</sup> wrote a letter dt. 27-9-89 to the then Chief Personnel Officer, N.E. Railway, Gorakhpur, seeking advice whether Live Casual Labour Register of Ex-casual Labour of this Unit who are pre-1981 may be prepared for further re-engagement or not. The Chief Personnel Officer vide D.O. letter dated 1/4-10-1990 intimated that 800 applications were received without any notification and they cannot be considered. Now it has been pointed out by the applicants that Live Casual Labour Register in respect of S.C. candidates were maintained in view of Railway Board's direction as contained in the above-referred letter dt. 4-3-87, u.s.f. from August, 1988, but no Live Casual Labour Register has been maintained in respect of the General candidates. The recruitments of candidates from open line, to which the applicants belong, was stopped u.s.f. 1-1-80 and from 1981 till date the vacancies of Khalasis in the scale of Rs.750-940 were filled up from Casual Labours/Time Scale Khalasis from B.G. Organisation, which is also evident from the D.O. letter dated 3/4-12-1990, a copy of which has been placed on records.

3. The learned Counsel for the respondents has placed before us the counter-affidavit in which it has been stated that no so-called Live Casual Labour Register for S.C. has been maintained and the Live Casual Labour Register has not been maintained in view of the decision of the C.P.D. which has been conveyed vide letter dated 1/4-10-90 and no notice was issued from the Deputy C.G., Gorakhpur area, for submitting application in terms of Board's letter dated 4-3-87. The said letter dated 4-3-87 was circulated by General Manager, Gorakhpur, on 12-3-87 vide his letter which was received in the office of the Dy. Chief Engineer on 23-3-87 and when it reached, the last date has expired. The recruitment of the casual labourers under Dy. Chief Engineer was stopped from 1-1-80 but vacancies of Class IV was filled up by screening semi-time scale khalaasis/casual labours who are working since long as time scale khalaasis. Although it has not been verified whether these applicants were actually working as casual labourers or not, or without verification as to whether they have worked for more than 240 days.

4. Thus, according to the respondents, no claim whatsoever can be made and it has been stated by the respondents that no juniors have been absorbed. Thus, according to the respondents, although they are prepared to open a Live Casual Labour Register, but unless there is a direction on this behalf from the Railway Board, the same cannot be done. As referred to above, from the Railway Board's letter it is clear that the Live Casual Labour Register is to be opened and the same is also required to be maintained, as the legal provisions under the Industrial Disputes Act cannot be defeated. As the applicants have worked for more than 240 days and

from Railway Boards letter also it is obvious that they should have opened a Live Casual Labour Register, such casual labourer should have been considered.

5. Accordingly the respondents are directed to open a Live Casual Labour Register in conformity with the above referred Railway Board's letter within a period of 3 months and all the 800 applications which have been received may be scrutinised and their names may be entered in accordance with the principles of seniority. It is also being made clear that the cases of these persons be considered for re-appointment or absorption after screening is done in accordance with law and they shall not be passed over in preference by the new comers and others who have no preferential right over the applicants. It is expected that the Live Casual Labour Register which is <sup>to be</sup> ~~once~~ opened will continue to be maintained by them. The application stands disposed of finally in the above terms. No order as to costs.

  
Member (A)

  
Vice-Chairman

Dated: 15th Oct., 1992, Allahabad.

(tgk)

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Hon.Mr.Justice U.C.Srivastava, V.C.  
Hon. Mr. K. Obayya, A.M.

After hearing the Counsels for the parties  
the case is being disposed of finally.

Judgement has been dictated in the  
open Court.



A.M.



V.C.