

(OPEN COURT)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

Dated: Allahabad, the 16th day February, 2001

Coram: Hon'ble Mr. S. Dayal, A.M.

ORIGINAL APPLICATION No.400 OF 1999

✓ Connected vide  
order dated 19.3.2001  
in the order sheet.

1. Jawahir Singh *Narain* *Deo*  
s/o Ram *Narain* Singh. 19.3.2001

2. Bijay Bahadur,  
s/o Raja Ram.

3. Raj Kumar,  
s/o Jhuri Singh

4. Shyamal,  
s/o Basantu Yadav.

5. Shobhnath,  
s/o Ram Deo.

6. Shakil Akhtar, *Aqil* *Hasan* *Deo*  
s/o *Aqil Hasan* 19.3.2001  
(All c/o Raj Kumar, r/o Dharna, P.O.  
Mughalsarai, District Varanasi).  
(By Advocate Sri S.K. Misra  
and Sri S.K. Dey) . . . . . Applicants

Versus

1. Union of India, through the General Manager,  
N. Railway, Baroda House, New Delhi.

2. The Senior DEE (OP),  
N. Railway, Allahabad.

( By Advocate Sri A.K. Gaur )

. . . . . Respondents

O R D E R (ORAL)

( By Hon'ble S. Dayal, A.M.)

This application has been filed for direction  
to the respondents to absorb the applicants in regular  
service in Group 'D'.

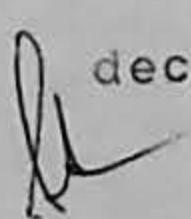
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2. The case of the applicants is that they had filed OA No.312 of 1992, which was decided by an order dated 28.4.93, directing the respondents to screen applicants for regular absorption within 3 months. In response to the direction, the respondents asked the applicants to submit papers regarding their period of work, which was done by the applicants. After issuance of letter dated 11.10.93 (Annexure No.A-2), the respondents issued an order dated 5.5.98 appointing two of the applicants in the said O. A. 312 of 1992 Ganga Ram and Shiv Kumar in the pay-scale of Rs.2550- 3200 as Assistant Box Khalasi on temporary basis. The learned counsel for the applicants contends that other applicants in this OA had also completed 120 days and yet they have not been screened and offered appointment and they had made a representation on 2.7.98, which has not been disposed of.

3. The learned counsel for the respondents has taken two preliminary grounds and prayed that the O.A. may be rejected. The first one is that of limitation. With regard to this, I find that the applicants have filed the O.A. on account of so-called pick and choose policy of the respondents in granting appointments to Sri Ganga Ram and Sri Shiv Kumar on 5.5.98 without considering the applicants. The present O.A. has been filed within time from that day and, therefore, the question of limitation would not apply in the present case.

4. The second contention of the learned counsel for the respondents is that the O.A. is barred by res-judicata. He has mentioned that the O.A. was decided and a direction was given to the respondents.



The applicants had filed Contempt Petition against the respondents for non-compliance of the order, which was again rejected, and thereafter, the applicants had filed an Execution Application, which was rejected and, therefore, the matter stood adjudicated and disposed of. This contention is also not acceptable, as the appointments of Sri Ganga Ram and Sri Shiv Kumar are after that period and the applicants are claiming cause of action from that date.

5. I have considered the contention of the learned counsel for the applicant that the number of days of work of the applicant stood accepted in O.A. No.312 of 1992. With regard to the period of work, the Division Bench observed in the said O.A. as follows:-

" All these applicants according to them entered in the railway service as Khalasi between 1982 to 83 and worked as casual Khalasi against casualties caused in the establishment and all of them had worked more than 120 day as casual Khalasi and in support of which forged certificates in respect to applicant Ganga Ram, Jawaha Singh, Raj Kumar and Shiv Kumar have been filed which indicate between 82 to 84 upto 31.1.84 he worked for 534 days and the other one worked from 31.12.82 to 31.10.84 for a considerable long period and Shiv Kumar applicant worked for 239 days between May 82 to October 1983 and Raj Kumar also worked between 83 to 84 for much more than 120 days. A screening took place on 9.10.91 by the Screening Committee but the applicants were not called and according to them those who had worked lesser days and junior to them were called and given benefit of the same."

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6. The respondents now in their counter reply have stated that the applicants were not screened, because they had worked for less than 120 days and that Sri Ganga Ram and Shiv Kumar had worked for more than 120 days. I find no mention as to why the period of work of Sri Raj Kumar, mentioned in Para- 1 as from 31.12.82 to 31.10.84 based on certificate and the period of work between 83 to 84 based on certificate are much more than 120 days, but the same has not been found acceptable. In cases of other 4 applicants also, there is no mention as to what the applicants had claimed and what the respondents found correct. Under the circumstances, I direct the respondents to make an enquiry regarding the period of working associating the applicants with the same and if they are found to have worked for more than 120 days, the applicants should be considered for grant of similar benefit, as given to Sri Ganga Ram and Sri Shiv Kumar within a period of four months from the date of receipt of a copy of this order. No order as to costs.

( S. DAYAL )  
MEMBER (A)

Nath/