

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1436 of 1999.

Monday, this the 03rd day of March 2003.

HON'BLE MR.JUSTICE R.R.K TRIVEDI, V.C.

1. Suresh
Son of Balloo. Sl. No.40.
2. Munnan
Son of Ramdhani Sl. No.99.
3. Deonath
Son of Phoku Sl. No.179.
4. Arjun
Son of Ram Surat Sl.No.340.
5. Bechan
Son of Sukhdeo Sl.No.443.
6. Ram Kishun
Son of Nargh Sl.No.516.
7. Sukhram
Son of Gudri Sl.No.541.
8. Sukhram
Son of Tulsi Sl.No.548.
9. Dalsingar
Son of Ram Surath Sl.No.640.
10. Mewa Lal
Son of Behari Sl.No.1100.
11. Shyam Lal
Son of Mahangu Sl.No.801.
12. Badri
Son of Govind Sl. No.855.

All C/o Ram Iiawan resident of Naseerpur. P.O.
Barita, District Chandauli.

.....Applicants.

(By Advocate : Sri R. Verma)

V E R S U S.

1. Union of India
through the General Manager,
E. Rly. Calcutta-1.
2. The Divisional Railway Manager,
E. Rly. Mughalsarai, District Varanasi.
3. Satyendra Kumar
Son of Ram Pravesh Prasad.
4. Dilip Kumar
Son of Khusheswar Singh.
5. Bipin Kumar
Son of Sadan Prasad.
6. Jitendra Prasad
Son of Bishundhari Lal.
7. Bhushan Ram
Son of Sita Ram.
8. Ashis Ranjan
Son of Parmeshwar Prasad.
9. Navin Kumar
Son of Jagdish Prasad.

All employed as Gangman U/P. W.I. Karamnasha at
Chandauli District Chandauli.

..... Respondents.

(By Advocate: Sri P Mathur/ Sri S. Ram).

O R D E R

By this O.A. filed under section 19 of Administrative
Tribunals Act 1985, the applicants have challenged the
appointment of respondent Nos. 3 to 9, ^{by} orders passed on
different dates filed as Annexures 9 to 15.



2. The grievance of the applicants ~~is~~ that they were engaged as Casual Labour and worked as such before 01.01.1981. However, ignoring the claim of the applicants, respondent Nos.3 to 9 were illegally appointed by way of direct recruitment. It is submitted that appointments have been made in contravention of the provisions contained under Rule 179 of Indian Railway Establishment Manual Vol.-1, which provides provisions for recruitment of Group 'D' Railway Servant. The reliance has been placed in paragraph III of Rule 179 mentioned above, which reads as under:

"Eligibility for Recruitment:- No direct recruitment shall be made to higher grades in Group 'D' except-

- (a) In certain categories where serving employees in lower grades do not offer; and
- (b) Where they cannot be trained in time in case of expansion or for embarking on new projects".

3. Learned counsel for the applicants has submitted that respondent Nos.3 to 9 have been directly recruited in clear violation of the aforesaid provisions. Another submission ~~is~~ that appointments have been made without any advertisement in confidential manner and ignoring the claim of the applicants.

4. The respondents have filed counter reply ~~notwithstanding~~ the claim of the applicants. It is submitted that the appointments of respondent Nos.3 to 9 are in the lowest grade of Group 'D'. They were engaged as temporary substitute Gangman and not on regular basis and provisions contained under Rule 179 has ~~no~~ application. It is submitted that the appointments were made under the direction issued by Higher Authorities. The claim of the applicants will be considered according to their seniority.



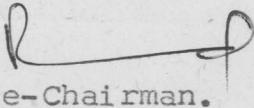
5. I have clearly considered the submissions of the learned counsel for the parties. From perusal of the appointment orders passed in favour of respondent Nos. 3 to 9, it is submitted that they have been appointed as Temporary Substitute Gangman in Group 'D' in pay scale of Rs. 2610-3540. It is not a regular or permanent appointment. Hence provisions contained under Rule 179 may not be applicable.

6. The learned counsel for the respondents has submitted that Scale of Rs. 2610-3540 is the lowest grade for Group 'D' post and for this reason also Rule 179 is not applicable. Alongwith counter affidavit filed by respondent Nos. 3 to 9, a copy of the letter dated 31.12.1998 has been filed, which ~~were passed & may be received~~ in their favour, by Chief Personnel Officer. It is submitted that the appointments thus, were made under the order passed from the General Manager level ~~on challenge~~ ^{on challenge (No pane)} and the applicants have no locus-standi. It is also submitted that the casual labourers are required for different units, divisions and workshop etc and applicants cannot challenge the appointment of respondent Nos. 3 to 9, who were engaged as direct recruits.

7. ^{Carefully} I have ~~already~~ considered the submissions made by the learned counsel for the parties. It is difficult to accept the claim of the applicants that the appointment of respondent Nos 3 to 9 have been made in violation of Rule 179. Firstly appointment ~~is~~ ^{are} as substitute and not on regular basis and secondly the pay scale in which they were appointed is the lowest.

8. In the circumstances, the applicants do not have any case for challenging the appointment of the respondent Nos. 3 to 9. I do not find any merit in the application. The original application is dismissed as not maintainable.

8. There shall be no order as to costs.


Vice-Chairman.

Manish/