

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1450 OF 2000

ALLAHABAD, THIS THE 25th Nov DAY OF November 2005

Hon'ble Mr. S.C. Chaube, Member-A

1. Komal Ram son of Sri Pawaroo Ram R/o Vill + Post Meuri, District Mau.
2. Manik Chand S/o Shri Ram Lakhan Ram R/o Village Tanguria, Post Chainpur, Gaura, District Ballia.

.....Applicants.

(By Advocate: Shri S.K. Maurya)

**Versus.**

1. Union of India through Secretary, Ministry of Railway, New Delhi.
2. The Divisional Railway Manager, N.E. Railway, Varanasi.
3. The Deputy Chief Engineer (Construction) N.E. Railway, Varanasi.

.....Respondents.

(By Advocate : Sri K.P. Singh)

**O R D E R**

Through this O.A., the applicants sought direction to the respondents to give them temporary status of casual Labour and further to consider the case of the applicants to be absorbed as Class IV employee, whenever vacancy occurs in the Department.

2. The brief facts of the case are that both the applicants who are the Members of Scheduled Castes, were engaged as Casual Labour/Khalasi in the Department of respondents under the Inspector of Works, Chhapra N.E. Railway, Varanasi during the period mentioned against each. The applicant No.1 worked from 08.10.1980 to 15.12.1981 and applicant NO.2 from 2.10.1980 to 15.12.1981. Both are the holders of the Casual Labour Card and their name figures at Sl. NO.2051 and Sl. NO.2052 in the list. After the construction work of Broad Gauge Line was over, they have not been further engaged by the department nor any other work was assigned to them. On personal contact with the Inspector of Works he told them that they will be given work as and when the same

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is available. Despite representations submitted to the respondent Nos.2 and 3, they have neither been enrolled as Casual Labours nor given status of Casual Labour, although sufficient work of permanent nature for casual labour/Khalasi was very much available with the Respondent's Department who, however, engaged freshers and ignored the case of the applicants.

3. According to the applicants, several Casual Labourers, who were junior to them and were working with the applicants, have been given work and engaged as Casual Labour at different places in the department by the respondent NO.3. But the applicants have been illegally deprived of their right to be engaged as casual labour in the department. It may be stated that the applicant NO.1 has worked as Khalasi for about 435 days whereas the applicant NO.2 has worked for about 429 days as Khalasi in the department and thus, they have acquired temporary status of Class IV employee as provided in Rule 2001 (1) P. Indian Railway Establishment Manual Vol-(ii). It is further contended by the applicants that on various occasion the respondent NO.3 held selection of the casual labour for regularization but they did not call for the applicants to participate in the selection process in violation of Normal Rules, as such the applicants were discriminated.

4. The applicants have further referred to the letter dated G.M. (P) Northern Railway, New Delhi dated 4.8.1997, which lays down policy for regularization of Causal Labour as on 31.7.97 and the target date for regularization was fixed as 31.9.1997. According to the policy decision, the applicants should have been engaged as Casual Labour by the department since they had worked for more than 120 days and were entitled for temporary status of casual labour.

5. The respondents have contended that the O.A. is barred by period of limitation prescribed under Section 21 of A.T. Act, 1985. They have further

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contended that no assurance was given to the applicants whose names are in the Live Casual Register recording as stated in para 4.4 of the O.A. and Ex-Casual Labourers were/are being re-engaged as per extant Rules in their respective construction Division. Further, no such representation is available with the respondent NO.3. It is clarified that in Varanasi Construction Division, the last casual Labour was re-engaged in the Chapra Aurihar Project of Varanasi Division in year 1992 and was having 1347 numbers of working days. Further on account of presence of surplus staff, no work was available for re-engagement in the Construction Division besides applicants are much junior. It is also contended in reply to para 4.10 of the O.A. that said regularization was for those casual labours who were not rolled as on 30.4.1996 and not for those who are out of job.

6. The respondents have further stated that the applicants were engaged in Barabanki-Samastipur Metre Guage to Broad Guage Railway Line Conversion Project. After completion of work of Conversion, the work load was greatly reduced and approximately 20,000 project Casual Labourers were retrenched in the month of August/September 1981 and April/May 1982. Aggrieved by the abovementioned retrenchment a number of writs/SLPs were filed by the retrenched Casual Labourers of B.G Construction Organization of N.E. Railway before the Hon'ble Supreme Court against the judgment of Patna High Court, Allahabad High Court and Lucknow Bench of Allahabad High Court whereby reinstatement and arrears of salaries were not allowed. Pending decision of the writs/SLPs in Hon'ble Supreme Court, the Railway Board decided in principle and formulated policy that casual labours employed in Project may be granted benefits of Temporary status on completion of 360 days continuous service in a phased manner. Further the Hon'ble Supreme Court decided the aforesaid SLPs/writs in the case of Prahlad Singh and others Vs. Union of India and others, issued a direction on 22.4.1985 in terms of their earlier judgment dated 18.4.1985 delivered in

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Indra Pal Yadava and others Vs. Union of India and others.

7. The respondents have stated that Hon'ble Supreme Court in the case of Indra Pal Yadav and others has accepted the scheme presented by the Railway Board. Accordingly, the casual Labourers who satisfy with the condition as laid down in the judgment ~~in general~~<sup>in</sup>, will get:-

- a) **Temporary status as per scheme.**
- b) **Those retrenched Casual Labours who could not come to court need not be at comparative dis-advantage to those who rushed in the Court if they are otherwise similarly situated and they are entitled to similar treatment.**
- c) **The Railway Administration should prepare a list of project Casual Labour with reference to each Division of each Railway and then start absorbing them with the longest service.**

Pursuant to the judgment of Hon'ble Supreme Court, the Ministry of Railway issued instruction vide their letter dated 11.9.1986 (Annexure CA-III). Thus, the seniority list of Project Casual Labours of Varanasi Construction Division was prepared on 1.4.1985 covering all Project Casual Labours, who were on Roll as on 1.1.1981 and onwards department-wise and category wise. After the publication of seniority list of Varanasi Construction Division to which the applicants belong to senior ex-project casual labours, who were on Roll on 1.1.1981 and onwards department-wise and category-wise, were offered job and were re-engaged. Since the respondents decided to update the particulars of the ex-casual labours, such as age, educational qualification, address, photograph etc. in the Live Casual Labour Register, a notice was published on 27/10/1999 in several Newspapers calling upon the Ex-Casual Labours who were in Construction Unit between 1.1.1981 to 31.3.1985 and whose names appeared in the Live Casual Register on 1.4.1985 to personally report to the concerned Dy. Chief Engineer, Construction alongwith relevant documents within 45 days of the publication of the said notice. But the applicants have not approached with the relevant documents to Deputy Chief Engineer, Construction N.E.

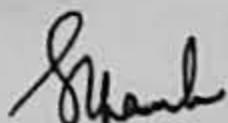
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Railway Lucknow (who is the custodian of Live Register of Varanasi Construction Division) in respect to the notification dated 27.10.1999; hence applicants' name could not be included in the updated Live Register.

8. I have heard the counsel for the parties and perused the pleadings.

9. There is a lot of weight in the contention of the respondents that regularization of the Casual Labour has been undertaken as per direction of the Hon'ble Apex Court in the case of Indra Pal Yadav Vs. Union of India in which the principle of last come first go or on reverse first come last go has been accepted. There is no provision for granting temporary status prior to the judgment of Hon'ble Supreme Court dated 18.4.1985. Even after the said judgment and Railway Board's Circular dated 11.9.1986 temporary status was not granted to the Casual Labourers who were out of employment. On the other hand, the temporary status was granted to the working Casual Labourers. I am inclined to agree with the contention of the respondents that applicants were quite junior and there were many seniors who were waiting for their turn to be regularized. The respondents have quoted that in Varanasi Construction Division, the last casual Labour was re-engaged in the Chapra Aurihar Project of Varanasi Division in year 1992 and was having 1347 numbers of working days at his credit. Lastly, there was no occasion to call the applicants as they were much junior and at present there is no work for re-engagement due to presence of surplus staff in the Construction Organization.

10. For the aforesaid reasons, the claim of the applicants seems devoid of merits and the O.A is accordingly dismissed with no order as to costs.

  
Member-A