

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.1418 of 1999.

Alongwith

Original Application No.1264 of 1996.

Alongwith

Original Application No.1604 of 1999.

Alongwith

Original Application No.708 of 1996.

Alongwith

Original Application No.1161 of 1995.

Alongwith

Original Application No.144 of 1997

Alongwith

Original Application No.1351 of 1996.

Alongwith

✓ Original Application No.674 of 2000 ✓

Alongwith

Original Application No.491 of 2001.

Alongwith

Original Application No.292 of 1997.

Allahabad this the 01st day of June 2004.

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman.
Hon'ble Mr. D.R. Tiwari, Member-A.

1. Shiv Pratap Singh s/o late Kauleshwar Singh, aged about 54 years.
2. Basudeo Prasad S/o Shri Jaldhar Prasad, aged about 43 years.
3. Panna Lal s/o Shri Heera Lal, aged about 46 years.
4. Data Ram Singh S/o Shri Laxaman Singh, aged about 49 years.
5. Hari Shanker Pandey S/o Shri Hathi Pandey, aged about 49 years.
6. Ram Bali Kushwaha S/o Shri Mizaji Lal Kushwaha, aged about 45 years.
7. Anoop Kumar S/o Shri Someshwar Prasad, aged about 50 years.

8. Chhote Lal S/o Shri Ram Nath,
aged about 45 years.

All are working as Storeman under the Deputy Chief
Engineer/Construction, Northern Railway, Allahabad.

.....Applicants in O.A.1418/99.

(By Advocates: Sri S.S. Sharma/Sri S Agrawal)

Versus.

1. Union of India owning and representing
'Northern Railway' notice to be served
to The General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Chief Administrative Officer
(Construction), Northern Railway,
Kashmere Gate, Delhi-6.
3. The Divisional Railway Manager,
Northern Railway D.R.M. Office,
Nawab Yusuf Road, Allahabad.
4. The Deputy Chief Engineer/Construction,
Northern Railway, D.R.M. Office Complex,
Nawab Yusuf Road, Allahabad.

....Respondents in O.A.1418/99.

(By Advocates : Sri A.V.Srivastava/Sri P Mathur)

Original Application No.1264 of 1996.

1. Ram Dass son of Shri Ram Autar.
2. Ram Shringar son of Shri Ram Dutt.
3. Sardar son of Shri Chhabba.
4. Deodh Nath son of Shri Sheo Karan.
5. Ram Shakal son of Shri Ram Nath.
6. Maharani Deen son of Shri Mahadeo.
7. Sipahi Lal son of Shri Deo Narain.

All are working as Permanent Way Mate under the Dy.
Chief Engineer/Construction, Northern Railway, Allahabad.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing
Northern Railway, notice to be served to-
The General Manager, Headquarters Office,
Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer/
Construction, Northern Railway, Kashmere
Gate, Delhi-6.
3. The Divisional Railway Manager,

Northern Railway, D.R.M. Office,
Lucknow.

4. The Dy. Chief Engineer/Construction,
Northern Railway, D.R.M. Office,
Allahabad.

.....Respondents.

(By Advocates: Sri A.V. Srivastava/
Sri P Mathur)

Original Application No. 1604 of 1992.

Bani Brata Sarkar son of late Chandra Kanta Sarkar
R/o 10 T/D Hathras Railway Jn. Railway Colony,
Hathras.

.....Applicant

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing 'Northern Railway' Notice to be served to General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Administrative Officer/Construction, Northern Railway, Kashmere Gate, Delhi-6.
3. Chief Electrical Engineer/construction, Northern Railway, Tilak Bridge, New Delhi.
4. Divisional Railway Manager, Northern Railway, D.R.M's Office, Allahabad.
5. Dy. Chief Electrical Engineer/Construction, Northern Railway, Allahabad.

.....Respondents.

(By Advocate : Sri P Mathur)

Original Application No. 708 of 1996.

Mahendra Kumar son of Shri Jogi Ram,
Vehicle Driver, aged about 34 years,
Resident of Railway Quarter No.2 CB,
Fazzalgunj, Kanpur.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing Northern Railway notice to be served to The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer/Construction, Northern Railway, Kashmere Gate, Delhi-6.
3. The Divisional Railway Manager, Northern Railway, Lucknow.

4. The Dy. Chief Engineer/Construction,
Northern Railway, Kanpur.

.....Respondents.

(By Advocate : Sri P Mathur)

Original Application No.1161 of 1995.

Smt. Johera Begam wife of Late Mohd. Khaleel
aged about 60 years, resident of Village:
Khajuri, P.O. Hariharpur, Bidoli Distt;
Mirzapur.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. The Union of India owning & representing
Northern Railway, Notice to be served to-
The Chief Administrative Officer/Construction
Northern Railway, Kashmere Gate,
Delhi-6.
2. The Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Allahabad.
3. The Dy. Chief Engineer/Construction,
Northern Railway, Allahabad.
4. The Dy. Chief Engineer/Construction,
Northern Railway, Lucknow.

.....Respondents.

(By Advocates: Sri P Mathur/
Sri A.V. Srivastava)

Original Application No.144 of 1997.

J.N. Upadhyay son of Shri Chandan Upadhyay,
aged about 44 years, resident of 150-A,
Meera Patti, Dhumanganj, Allahabad.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing N.
Railway, Notice to be served to- The
General Manager, Northern Railway,
Headquarters Office, Baroda House,
New Delhi.
2. The General Manager, Central Organisation
Railway Electrification, Headquarters
Office, Nawab Yusuf Road, Civil Lines,
Allahabad.
3. The Divisional Railway Manager,
Northern Railway, Allahabad.

.....Respondents

(By advocates Sri S.S. Sharma & Sri P Mathur)

Original Application No. 1351 of 1996.

1. Goverdhan Prasad S/o Shri Prahalad, aged about 43 years.
2. Sunder Lal S/o Shri Sahebdeen, aged about 43 years, Both are working as Permanent Way Mate Grade Rs. 950-1500/- (RPS) under the Dy. Chief Engineer/Construction, Northern Railway, Kanpur.

.....Applicants.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing 'Northern Railway' Notice to be served to- The General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Administrative Officer (Construction), Northern Railway, Kashmere Gate, Delhi-6.
3. The Divisional Railway Manager, Northern Railway, D.R.M. Office, Allahabad.
4. The Dy. Chief Engineer (Construction), Northern Railway, Kanpur.

.....Respondents.

(By Advocate : Sri P Mathur)

Original Application No. 674 of 2000.

Mrityanjay Prasad S/o Shri Ramji Shukla, aged about 46 years, resident of 157, Tula Ram Bagh, Allahabad.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing 'Northern Railway', Notice to be served to- The General Manager, Northern Railway, Headquarters Office, Baroda House, New Delhi.
2. The General Manager, Headquarters Office, Central Organisation Railway Electrification, Allahabad.
3. The Divisional Railway Manager, Divisional Railway Manager Office, Northern Railway, Nawab Yusuf Road, Allahabad.

.....Respondents.

(By Advocate : Sri A.K. Gaur)

Original Application No.491 of 2001.

Riazuddin S/o Shri Nizamuddin,
aged about 54 years, Resident of
No.308-A, Dariabad, Allahabad.

.....Applicant.

(By Advocate : Sri S.S. Sharma)

Versus.

1. Union of India owning and representing
'Northern Railway', Notice to be served to
the General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Chief Administrative Officer/
Construction, Northern Railway,
Kashmere Gate, Delhi-6.
3. The Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Allahabad.
4. The Chief Signal & Telecommunication
Engineer/Construction, Northern Railway,
Kashmere Gate, Delhi-6.
5. The Dy. Chief Signal & Telecommunication,
Engineer/Construction, Northern Railway,
D.R.M. Office, Allahabad.

.....Respondents.

(By Advocate : Sri A Sthalekar)

Original Application No.292 of 1997.

Shitla Prasad son of Sh. J.L. Srivastava,
aged about 59 years, Resident of 288-A,
Lukerganj, Allahabad.

(By Advocate : Sri S.S. Sharma) ^{Applicant.}

Versus.

1. Union of India owning and representing
Northern Railway Notice to be served to-
The Chief Administrative Officer/Construction,
Northern Railway, Kashmere Gate, Delhi-6.
2. The Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Allahabad.
3. The Dy. Chief Engineer/Construction,
Northern Railway, D.R.M. Office Campus,
Allahabad.

.....Respondents.

(By Advocate : Sri G.P. Agarwal)
Sri P Mathur)

Parry

O_R_D_E_R_

(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri S.S. Sharma learned counsel for the applicants in all the above O.As and Sri P Mathur learned counsel for the respondents in O.A Nos. 1418/99, 1604/99, 1161/95, 708/96, 144/97, 1351/96, 1264/96 and 292/97, Sri A.K. Gaur learned counsel for the respondents in O.A. No. 674/00 and Sri S.K. Pandey holding brief of Sri A Sthalekar learned counsel for the respondents in O.A. No. 491/01.

2. Impugned in this bunch of O.As are identically worded notice issued on 28.10.1999 by Rajiv Bhatnagar for Chief Administrative Officer/Construction, Northern Railway, Headquarters Office, Delhi thereby reverting and transferring the individual applicants to Allahabad for posting either as Khalasi or Gangman, as the case may be. Challenge to the validity of the impugned notice is on the ground that it runs counter to the instruction given by the Hon'ble Supreme Court vide order dated 11.08.1986 in the case of Indra Pal Yadav & Ors. Vs. Union of India & Ors. 1986 SCC (L&S) 525 in writ petitions No. 147, 320-69, 454, 4335-4434/83, etc, etc (initially decided on 18.04.85). The Supreme Court had issued certain directions vide judgment dated 18.04.1985 for framing a scheme with regard to absorption of Casual Labourers employed on projects known as Project Casual Labour. The scheme as formulated by the Ministry of Railways pursuant to the direction given by the Hon'ble Supreme Court vide judgment dated 18.04.1985 visualized that casual labours employed on Projects may be treated as temporary on completion of 360 days of continuous employment, the benefit of which was to be given to Casual Labour on project as on 01.01.1984, a cut-off date which by a subsequent order was modified as 01.01.1984. The Ministry of Railways prepared the

with reference to each department in each division and also in regard to each category namely skilled, semi-skilled, unskilled in compliance with the judgment and order dated 18.04.1985 given by the Hon'ble Court. Their Lordships of the Hon'ble Supreme Court by order dated 11.08.1986 observed that the absorption of these Casual Labour with the longest service be made in accordance with such list that is to say the category wise list prepared in each department in each division as per judgment and order dated 18.04.1985. Applicants were absorbed and by notice impugned in these connected O. As they have been reverted and transferred to Allahabad Division for further posting as Khalasi/Gangman against the requirement of Allahabad Division under A.E.N/CN.

3. Concededly the applicants were working as Casual Labours in Project known as Construction Organisation. They did not acquire any vested right to be absorbed in the Construction Organisation which is otherwise a work-charged organisation. Class 3 and 4 employees engaged in the construction are not born in any cadre. The order of absorption has not been brought on record. We have reasons to believe that pursuant to the direction given by the Hon'ble Supreme Court these applicants were regularised in open line and consequently no exception can be taken to their reversion and transfer to Allahabad Division for further posting in open line on the post on which they have been regularised.

4. The submission of Sri S.S. Sharma learned counsel for the applicant that the order of reversion/transfer is not in conformity with the order dated 11.08.1986 passed by the Hon'ble Supreme Court can not be countenanced for the said order pertains to absorption of casual labour with longest service "in accordance with such list" i.e. category wise list and there is nothing on record to show that absorption was not done according to category

wise list. In fact, the order of absorption is not challenged in the present O.A. The matter is concluded by the judgment of Hon'ble Supreme Court in writ petition No.548/2000 Inder Pal Yadav & Ors. etc. etc. Vs. Union of India and Ors. etc. etc. and that of a Division Bench of this Tribunal in O.A. No.1530/1999 connected with certain another O.As Ram Nakshatra and Ors. Vs. Union of India and others decided on 20.04.2004. We have no reason to take contrary view. In the light of latest judgment of Hon'ble Supreme Court dated 13.01.2000 the Railway Board have issued a circular dated 04.07.2003 thereby directing the Authorities to keep in mind the observation made by the Supreme Court as guiding factor while dealing with matters relating to manning of posts in the Construction and other Projects including RE and reversion of staff back to the cadre. There is nothing in this O.A. to suggest that guiding indicated in the said circular letter have been violated by respondents.

5. It may be pointed out that Sri Ram Dass and Doodh Nath applicants in O.A. No.1264/96 died on 15.03.2003 and 10.06.2002 and relief claimed being personal does not survive. O.A. No.1264/96, in so far as these two applicants are concerned, is liable to be dismissed on that ground also.

6. Accordingly the O.As fail and are dismissed. We however make no order as to costs.

Dinesh
Member-A.

RD
Vice-Chairman.

Manish/-