

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ORIGINAL APPLICATION NO.1578 OF 2002

ALLAHABAD THIS THE 19TH DAY OF April, 2005

HON'BLE MR. K.B.S. RAJAN, MEMBER-J

1. Lochan S/o Sri Ram Dawar
R/o Village Makree, Post Devlas,
District Mau.
2. Ram Briksh, S/o Sri Baldev V.S. Rathore,
Village & Post Bojhi, District Mau.
3. Lal Chandra Yadav, S/o Sri Yamuna Yadav,
R/o Village Apdazliya Haripara, Post Gonthha,
District Mau.
4. Ram Chandra, S/o Sri Musaphir,
R/o Village Tilaie Buzurg, Post Mirza Jamalpur
(Ghosi), District Mau.

.....Applicants

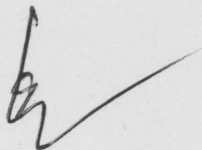
(By Advocate Shri R.K. Pandey (Absent))

V E R S U S

1. Union of India,
Through the G.M.,
N.E. Railway,
Gorakhpur.
2. The Chief Personnel Officer,
N.E. Railway,
Gorakhpur.
3. Divisional Railway Manager,
N.E. Railway,
Varanasi.

.....Respondents

(By Advocate: Sri Anil Kumar)



ORDER

The applicants (four in numbers) have prayed inter alia for the following relief(s):

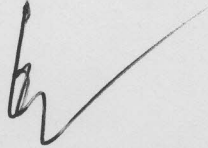
- "(i) To issue any order or direction commanding the respondents to issue appointment letter for the post of Class IVth post in pursuant to the panel list dated 20.11.1989, 15.3.90 and 11.8.1990 and to regularize their services.
- (ii) To issue order or direction commanding the respondents to implements the panel list prepared in pursuance to the notification dated 9.2.1998 before making any further fresh appointment in the Class IVth post."

2. Their case is that they were engaged as Casual Labourers in the N.E. Railway, Varanasi on various dates from 1978 to 1980 and were kept engaged till 1990. They had completed 120 days of service on each year of their engagement and as such, under the provisions of Paragraph 2525 they were all entitled to temporary status. In February, 1988 the respondents had decided to prepare a panel list of casual labourers and in the list prepared in the wake of the notification in 1989, the applicants' names figured . This list was updated in April, 1990 as well and the applicants' names did figure in, in this list too. However, the applicants were never considered for regularization as Group D employees. Consequently, the applicants preferred OA No. 63 of 1996 (A.K. Gupta and others vs UOI and others) for adjusting the applicants

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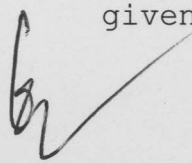
against the posts advertised in 1995. This was decided by the Tribunal vide order dated 4th June, 2001 by which the respondents were directed to consider regularization of the applicants in accordance with the verification done in this regard as per the list dated 21st April, 1990. The grievance of the applicants is that despite the above, the respondents did not consider them for regularization and instead, they had started appointing "new faces". The applicants were making repeated representations in 2001 and 2002 but of no avail and hence they have filed this application.

3. The respondents had furnished their version. According to them, though in 1988 it was decided to prepare a panel of casual labourers for the purpose of regularization in a phased manner, in 1989, because of the closure of the steam engine production units, a number of substantive/regular employees were rendered surplus. Hence, it became necessary to ensure adjustment of such regular surplus employees, consequent to which the panel of casual workers prepared had to be kept in abeyance. As regards appointment of 'new faces', the response of the respondents is that those appointed in 2000 were in respect of electrical engineering with the approval of the competent authority and are not from Mechanical Engineering. As such, they had denied the contention in this regard made in the O.A.




4. At the time when the case was called, none entered appearance on behalf of the applicants, even during the second call, while the respondents were represented by their counsel. Consequently, invoking the provisions of Rule 15 of the A.T. Act, the case has been considered. The applicants' grievance is that the list prepared by the respondents had not been pressed into service and that new faces were inducted. The response of the respondents is as stated above that the closure of one massive unit of the Railways has resulted in many employees rendered surplus and consequently they were first to be accommodated, they being regular employees. In that process, there was no possibility of the panel prepared being utilized. It is not the case of the applicants that some one junior to them from out of the list had been appointed. As such, in the absence of hostile discrimination, and the action on the part of the respondents having been found to be proper in adjusting the surpluses first, there is absolutely no right of the applicants that has been hampered by the act on the part of the respondents. Hence the OA is devoid of merits and the same is rejected.

5. However, it is found that the applicants belong to OBC and they are in their late thirties or early forties. In that case, if need arises for engaging casual labourers, the applicants may be given preference and their engagement be considered



on preferential basis. This observation however, cannot be taken to give any vested right to the applicants. It is purely an advice to the respondents to use their discretion judiciously so that the applicants who had earlier served for over a decade could in future be considered for engagement.

6. Under these circumstances, no order as to cost.



MEMBER-J

GIRISH/-