

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
BENCH, ALLAHABAD

(This the 18<sup>th</sup> Day of July, 2013)

**Hon'ble Mr. Shashi Prakash- AM**

**Hon'ble Ms. Jasmine Ahmed - JM**

**Original Application No.622 of 2003**  
(U/S 19, Administrative Tribunal Act, 1985)

1. Shobh Nath Tiwari, S/o of Shri Shree Nath Tiwari.
2. Surya Bali, S/o Shri Geyana
3. Shivji, W/o Shri Paras
4. Munshi Lal, S/o Shri Hari Prasad
5. Ram Kishun, S/o Shri Haldu
6. Prem Prakash Gupta S/o Shri Paltu Prasad
7. Naresh Jha S/o Yogandar Jha
8. Ravindar Kumar Shrivastava, S/o Shri Ram Shanker Shrivastava
9. Ramanand, S/o Shri Ram Surat
10. Surendar Singh S/o Shri Dhruv Narayan Singh
11. Heera Prasad, S/o Shri Paltu Prasad
12. Ram Chandar Yadav S/o Shri Kunjal Yadav.
13. Fanni Lal, S/o Shri Avadh.
14. Ram Das S/o Shri Ram Kishun.

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15. Jagdees Prasad S/o Shri Anirudh Prasad.
16. Shesh Nath Mishra S/o Shri Rama Kant Mishra.
17. Safedi Prasad Gupta, S/o Shri Ram Khelavan Prasad.
18. Rama Shraya, S/o Shri Chavi Lal.
19. Shvi Pujan s/o Shri Kashi Singh.
20. Saghan Lal, S/o Shri Krishan Bihari.
21. Ram Shubhag Yadav, S/o Shri Hub Raj Yadav.
22. Harishanker, S/o Shri Sant Ram,
23. Kameshwar Tripathi S/o Shri Lalji Tripathi.
24. Hatim Khan, S/o Shri Sultan Khan
25. Gaya Prasad, S/o Shri Dal Chand.
26. Madan Mohan, S/o Shri Kariya
27. Hanuman Mishra S/o Shri Satya Narayan Mishra.
28. Rajendar Prasad Soni, S/o Shri Harihar Prasad Soni
29. Ram Vilash, S/o Ram Deen.
30. Hari Nandan, S/o Shri Pran Rai.
31. Dhruv Narayan S/o Shri Ram Nath.
32. Hari Nath Prasad S/o Shri Algu Prasad
33. Hari Lal S/o Shri Santoshi
34. Jhahid Ali S/o Sayad Ali
35. Ram Prasad S/o Shiv Shanker Tiwari
36. Subhash Chandra Tiwari, S/o Shri Radhya Shyam.

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37. Maya Ram Pandey, S/o Ram Dhan Pandey.
38. Dhruv Lal Prasad Srivastava, S/o Shri Suraj Lal Prasad Srivastava.
39. Nand Lal, S/o Shri Raj Narayan Tiwari.
40. Ghanshyam Mishra, S/o Shri Ram Naresh Mishra.

All are working as Mate in the Office of chief Administrative Officer (Const.) NER, Gorakhpur.

..... Applicants

By Advocate: Shri Ashish Srivastava

Versus

1. Union of India, through General Manager, North Eastern Railway, Gorakhpur.
2. General Manager (P), North Eastern Railway, Gorakhpur.
3. Chief Administrative Officer (Const.) North Eastern Railway Gorakhpur.

..... Respondents

By Advocate: Shri K.P. Singh

### ORDER

(Delivered by Hon'ble Mr. Shashi Prakash, Member-A)

By way of the instant Original Application the applicants have prayed for quashing the order dated 20.05.2003 (Annexure A-5) and for a direction to the respondents to allow them to continue to work as Mate (Group C) in construction Division till their services are regularized.

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2. The applicants in this case are working in Group C post on ad hoc basis under the Constriction Division. The Railway Board issued a letter on 9.4.1997 (Annexure A-3) for regularizing the services of Group C staff and in pursuance thereto 03 Senior Scale Officers were nominated to conduct the screening for regularization of the applicants in Group C cadre. The applicants were screened but during the pendency of the result of screening, the respondents issued a letter dated 31.12.1997 (Annexure A-4) whereby regularizing the applicants in Group D category. It was mentioned in the letter dated 31.12.1997 issued by respondent No.3 that the applicants will be continuously working in the construction department in Group C category on ad hoc basis till they are not regularized in Group C category. However, the respondent No.2 vide order dated 20.05.2003 directed the DRM (P) NE Railway Izatnagar, Lucknw and Varanasi for allocating lien of the applicants and to relieve them for their respective divisions as per lien made by respondent No.2 in open line Group 'D' (Annexure A-5). The applicants are aggrieved by the decision of the respondents dated 20.05.2003. Hence, filed this instant Original Application.

3. Respondents have filed counter reply in which they have stated that the circular dated 9.4.1997 does not stipulate for regularization of casual labourers who are directly engaged in Group C posts. It is

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further stated that in the construction organization the employees are deputed as per the requirement of work and after completion of project or reduction in work employees are returned back to their parent organization where their lien are fixed. The applicants belong to the open line therefore, they cannot claim for their regularization in construction division. The respondents cited the decision of Apex Court in the case of *Moti Lal vs. U.O.I. and others* (1976)7SCC 481 and Full Bench judgment of the Tribunal in the case of *Aslam Khan vs. U.O.I. & Ors.*

4. We have heard Shri Ashish Srivastava, counsel for the applicant and Shri K.P. Singh, counsel for the respondents.

5. Learned counsel for the applicant in support of his claim cited an order passed by the Division Bench of this Tribunal on 18.11.2012 in O.A. No.1024 of 2003 (Ashok Kumar Srivastva & Ors. vs. Union of India & ors) involving an identical controversy. The directions contained in Para-16 of the above order is reproduced as below:-

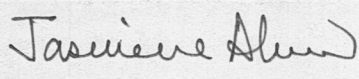
"16. Accordingly, while not interfering with the impugned order dated 13<sup>th</sup> August, 2003, it is declared that the applicants' status in the open line would be reviewed for elevating them to Group C when any of their juniors had been conferred with such a status and the same would date from the date the junior concerned had been so afforded the Group C status. In the event of none of the juniors having been

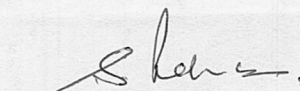
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conferred with such a status, if by virtue of their seniority, the applicants become eligible to be considered for affording such a status of Group C, the same shall be considered by the respondents. In case such a stage has not yet reached, then the applicants' services would continue to be in the Construction Wing unless there is a question of reduction in the manpower in the Construction Wing, in which event also, respondents shall consider the case of the applicants for repatriation only in accordance with law, i.e. last in first out. In the event of such repatriation, the applicants' pay and pay scale would be decided taking guidance from the decision of the Apex Court in the case of **Bhadei Rai and Parameswaran** (supra) respectively. ”

6. We have perused the order and are satisfied that the controversy involved in the instant original application is similar to the O.A. No.1024 of 2003. Therefore, we are of the opinion that instant original application deserves to be decided in the same line.

7. In view of the observations made above, the O.A. is disposed of. Respondents are directed to consider the claim of the applicants in the light of observations made in Paragraph No.16 of the order dated 18.11.2012 passed in O.A. No.1024 of 2003 (Ashok Kumar Srivastava vs. Union of India & Ors.) within a period of two weeks from the date of certified copy of this order. The applicants are also directed to file a copy of the order dated 18.11.2012 to the respondents along with certified copy of this order. No costs.

  
(Jasmine Ahmed)  
Member-J

  
(Shashi Prakash)  
Member-A

Anand