

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1270 OF 2006

ALLAHABAD THIS THE 28<sup>th</sup> DAY OF JANUARY 2009

HON'BLE MR. JUSTICE A. K. YOG, MEMBER-J

1. Jang Bahadur Son of Shri Bhagwan Das,  
R/o Nadipaar Tal, Jodha Singh Ka Bara,  
Naveen Convent School Ke Samne Wali Gali,  
Murar Gwalior (M.P.)
2. Sahjad Ali Son of Shri Nawab Ali,  
R/o House no.225 Satipur, Masjid Murar Gwalior  
(M.P.).
3. Laxmi Narayan Son of Tulsi Ram,  
R/o Loha Mandi, Sewa Nagar, New Tulsi Bihar,  
District Gwalior.
4. Raju Son of Kamla Prasad, R/o Aara Mill Kohli  
Samaj Daftar Ke pass, Post Office Birla Nagar,  
Gwalior (M.P.)

..... Applicants

By Advocate : Miss A. Basheer

Versus

1. Union of India, through General Manager,  
North Central Railway, Allahabad.
2. Dy. Railway Manager (Personal),  
North Central Railway, Jhansi.
3. Station Superintendent,  
North Central Railway, Gwalior.
4. Assistant Divisional Mechanical Engineer,  
Gwalior, Central Railway, Jhansi.
5. Regional Superintendent, Gwalior  
Choti Line, Central Railway,  
Gola Ka Mandir, Gwalior (M.P.)

..... Respondents

By Advocate : Shri A. K. Pandey

O R D E R

1. Heard Miss Alrafeo Basheer, learned counsel for  
the applicant and Shri A. K. Pandey, learned counsel  
for the respondents.



2. To appreciate the grievance of the applicants raised in this OA, a brief factual back drop is recapitulated. The applicants have been claiming reasons on the ground of having worked for requisite time as Muster Roll/Casual Labour. According to them, they were, arbitrarily ignored from being regularised and, hence, compelled to approach this Tribunal by filing OA No.672/06 (Jang Bahadur and three Others Versus Union of India and Others). This Tribunal vide its order dated 29.8.2006/Annexure A-1 to the OA directed the respondents to consider the case of the applicant; for convenience relevant para 3 to 6 of this order of the Tribunal are reproduced:-

"3.I have considered the submission of the learned counsel for the applicants in support of the case of her clients. Provisions of Para 179(xiii) are quite clear on the subject.

The relevant portion of Para 179(xiii) reads as under:

"179 (xiii) Casual Labour, Substitutes and Temporary Hands<sup>(a)</sup>) Substitutes, casual and temporary workmen will have prior claim over others to permanent recruitment. The percentage of reservation for Scheduled Castes and Scheduled Tribes should be observed in recruitment to temporary or permanent vacancies.

(b) Substitutes, casual and temporary workmen who acquire temporary status as a result of having worked on other than projects for more 120 days and for 360 days on projects other than casual labour with more than 120 days or 360 days service, as the case may be should be considered for regular employment without having to go through Employment Exchanges. Such of the workmen has join service before attaining the age of 25 years may be allowed relaxation of maximum age limit prescribed for Group 'D' posts to the extent of their total service, which may be either continuous or broken periods."

4. In view of the clear provisions of law, there was absolutely no reason for the respondents to have regularized the services of junior workmen over and above the applicant in the OA. Whatever

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has been done is certainly not in accordance with Law as referred to above.

5. Since the learned counsel prays for direction to respondents to decide the representation of her clients which is pending before them for consideration, within a reasonable time frame, I feel that a suitable direction to that effect can be issued to the respondents in this regard.

6. Accordingly, the respondents are hereby directed to decide the representations of the applicant in accordance with para 179(xiii) of the Indian Railway Establishment Manual and other Rules governing the subject treating this OA itself as a representation from the applicants within a period of three months from the date of receipt of a certified copy of the order and in accordance with law".

3. The applicants, in view of the aforequoted order approached the respondents who have, however, rejected the claim of the applicant vide impugned order dated 13.10.2006/Annexure A-3.

4. Claim of Applicant No.1/Jang Bahadur has been rejected on the ground that inspite of registered notice being given to him on 25.3.2003 he failed to present himself for screening, on notified date. Claim of Applicant Nos.2,3 & 4 (Sahjad Ali, Laxmi Narayan and Raju), according to impugned order, rejected since no representation/Application as required under notification, in question, was received by the Respondents.

5. Grounds, on which, claim of the applicants has been ignored, cannot be sustained for the simple reason that the respondents has to consider the claim of the applicant as per the provisions of Indian

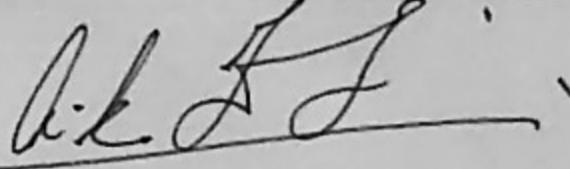
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Railway Establishment Manual and other relevant Rules-treating earlier OA itself as their Representations.

6. In view of the above, order dated 13.10.2006 cannot be sustained and it is accordingly set aside with direction to the respondents to consider the case of the applicant ignoring objections contained in the impugned order dated 13.10.2006 as directed vide Tribunal order dated 29.08.2006 in OA No.672/2006).

7. OA stands allowed subject to the above directions.

No Costs.

  
Member-J

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