

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD.

Dated : This the 26<sup>th</sup> day of JULY 2007

Original Application No. 841 of 2006

Hon'ble Mr. P.K. Chatterji, Member (A)

1. Vijay Bahadur Lal Srivastava, S/o Ched Lal, R/o Shahbajpur, P.O. Deoria Budhu Khan, Deoria.
2. Indra Bhushan Srivastava, S/o O.P. Srivastava, R/o Ram Pur Liliha, P.O. Bhatpar, Rani Deora.
3. Bachha Sharma, S/o S.N. Sharma, R/o Village Dakhini Tala, Distt: Siwan.
4. Ramesh Prashad, S/o Shitla Prasad, R/o Vill Vazidpur, P.O. Kewani Bhaja Gadhikha, Distt: Saran.
5. Hira Lal, S/o Indra Deo, R/o vill Sagar Pali, Distt: Deoria.
6. Ram Vilash, S/o Sri S.R. Yadav, R/o Vill P.O. Jagatbala, Gorakhpur.
7. Ram Balak, S/o Sri Shiv Pujan, R/o Village Shahadeen, P.O. Peepriiganj, Gorakhpur.
8. Ram Karan, S/o Sri Dhadhibal, R/o Majhgawan, P.O. Jagatbela, Gorakhpur.
9. Raj Narain Singh Yadav, S/o Sri Harihar Prasad Yadav, R/o Vill Kabir Pur P.O. Mardah, Ghazipur.
10. Kapil Deo Sharma, S/o Sri Baij Nath Sharma, R/o Vill and Post Darveen Distt: Sewan Bihar.
11. Ram Avadh Singh Kushwaha, S/o Sri J.N. Kushwaha, R/o Vill Sahapur, Bahar Rai, P.O. Jakhria Ghazipur.

... Applicants

By Adv: Sri A.K. Srivastava & Sri M.K. Srivastava

V E R S U S

1. Union of India through General Manager, North Eastern Railway Gorakhpur.

2. Divisional Railway Manager, North Eastern Railway, Varanasi Division, Varanasi.
3. Senior Divisional Personnel Officer, North Eastern Railway, Varanasi Division, Varanasi.

... Respondents

By Adv: Sri D.P. Singh

O R D E R

The 11 applicants in this OA are all ex-casual labours in the Railways. They were engaged as casual labour in the Railways on different dates between November 1976 and January 1980. They continued to work as casual labour for several years and their engagement were discontinued in the year 1989. Before their disengagement, however, they were given temporary status, as stated in the OA.

2. The applicants have been making representations for their regularization before the respondents for a long time. However, their requests were not acceded to. There were many other ex-casual labours who were similarly circumstanced, some of them had approached this Tribunal by filing OA No. 292/05 which was decided by the Tribunal on 16.11.2006 as below:

*"In view of the facts that the applicant's case was wrongfully decided by the Respondent no. 3, the applicant is entitled for regularization of his service, as he is in the seniority list after getting temporary status. His over age may be relaxed sympathetically as per paragraph no. 17.9 of Board's letter no. E(NG) II/79/CL/5 dated 16.05.1979, E(NG) II/83/CL/NR/39 dated 29.09.1980, 10.10.1980 and 19.05.1983, which reads as under:*

*"17.9 At the time of screening of casual labour relaxation in age should be automatic if it is established that the individual was*

*berah*

within the prescribed age limit and had been more or less regularly working. In old cases, where the age limit was not observed, relaxation of age should be considered sympathetically. The CPOs, DRMs and the Chief Engineer (Construction) and competent to grant the relaxation in age."

In the result, the OA is allowed. Order dated 03.02.2005 is hereby quashed and set aside. It is declared that the applicant is entitled to be reinstated and regularized. On regularization, the applicant shall be fixed his pay on national basis and increment in pay be added to the applicant and his pay on the date of his joining and regularization shall be fixed accordingly. No arrears are payable to the applicant. Other benefit of seniority and further promotion, if any, would however accrue."

3. During argument of the case on 19.07.2007, learned counsel for the applicant stated that the case of 11 applicants in this OA are exactly the same as that of applicants in OA 292/05 which was decided in favour of the applicants. Therefore, the learned counsel for the applicant seeks the benefit of judgment passed in OA 292/02 to be extended to the applicants in the present OA as well.

4. During hearing of the case on 19.07.2007 one question was asked from the learned counsel for the respondents whether he is aware of further development in the matter and particularly whether the direction of the Tribunal has been complied with. Learned counsel for the respondents stated that the decision of this Tribunal passed in OA 292/05 was challenged before the Hon'ble Allahabad High Court in Writ Petition No. 8148/07. The Writ Petition was decided by the Hon'ble High Court on 14.02.2007 in which the following orders were passed:



"In view of the aforesaid decisions, we are of the opinion that the direction issued by the Tribunal cannot be sustained in the eyes of law and is liable to be set aside. We, therefore, set aside the impugned judgment and order dated 16.11.2006 passed by the Tribunal. However, we direct that the case of the respondent no.1 employee shall again be considered by the Competent Authority in the light of the judgment of the Hon'ble Supreme Court in *Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors., (2006) 4SCC1.*"

5. Having gone through the decision of Hon'ble High Court and having heard the respective counsel I am of the view that the representation of the applicant in this case can be decided on the same lines as directed by the Hon'ble High Court as the decision of the Tribunal in OA 292/05 has been set aside by the Hon'ble High Court, obviously it is not possible to extend the benefit of the judgment to the applicants in this OA. The point made by the learned counsel for the applicant that the case of the present 11 applicants is similar to that of applicants in OA 292/05 has not been disputed. Therefore, it is directed that the case of the applicants may be decided on the same lines as directed by the Hon'ble High Court. The respondent No. 2 is, therefore, directed that the representations of the 11 applicants pending before him should be considered by him in the light of the judgment of the Hon'ble Supreme Court in *Secretary, State of Karnataka & Ors Vs. Umadevi & Ors, (2006) 4 SCC 1.* With this direction this OA is disposed of. No cost.

*meaw*