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OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION No.905/2006

THURSDAY, THIS THE 31st DAY OF AUGUST, 2006

HON'BLE MR. A.K. SINGH ... MEMBER (A)

1. Shri Dinesh Singh, S/o Shri Ram Saran,
R/o Station Road, Sengara Achnera,
District - Agra.
2. Shri Keshav Singh, S/o Shri Ram Saran,
R/o Railway Loco Colony Achnera,
District - Agra.
3. Shri Mahendra Singh, S/o Shri Mohan Singh,
R/o Railway Loco Colony Achnera,
District - Agra.

Applicants

(By Advocate Ms. A. Basheer)

Vs.

1. Union of India, through General Manager,
North Central Railway,
Allahabad.
2. Deputy Railway Manager (P)/DPO,
Agra.
3. Deputy Railway Manager,
Agra.
4. Deputy Railway Manager, Establishment,
North Western Railway,
Jaipur.
5. Divisional Mechanical Engineer,
Jaipur.

Respondents

(By Advocate Smt. Shika Singh, Counsel for Railways)

ORDER

Heard Ms. A. Basheer, counsel for the applicant and Smt. Shika Singh, the learned counsel for the respondents.

2. In this case, the applicants seek the common relief of their screening and absorption against the existing Class IV/Group 'D' post for which a massive

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screening is already going on in Agra Division. All the applicants have rendered over 120 days of service in a non project establishment and therefore, are entitled to temporary status. The learned counsel submits that their names are already entered in the casual live register. The applicant No.1, Shri Dinesh Singh, has rendered 155 days of service, the applicant No.2, shri Keshav Singh, has rendered 132 days of service, applicant No.3, Mahendra Singh, has rendered 205 days of service. Their cases are fully covered by the judgment of the Apex Court in the case of Indra Pal Yadav and Others. But, the respondents, instead of regularizing them as per rules, have chosen to regularize persons who had not put in the minimum period required for grant of temporary status. The following employees, viz., (1) Sl. No.62, Sunder Singh - 3 days, (2) Sl.No.72, Mahesh Chand - 15 days, (3) Sl. No.87, Gopal Krishna - 1 day, (4) Sl. No.89, Shri Mahesh Chand 1 day, were regularized out of turn in preference to the applicants, even though they had not put in even 120 days of work as a casual employee. The instructions contained in para 179 (xiii) lays down the following guidelines for regularization of "Substitutes, Casual and temporary workmen".

"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".

Para 179(xiii) (b) also lays down "Substitutes, casual and temporary workmen who acquire temporary status as a result of having worked on other than projects for more than 120 days and for 360 days as the case may be should be considered for regular employment....." Such of the workmen as join service before attaining 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. Sub-para (c) of the aforesaid provision further lays down that "A Register may be maintained by all Divisions concerned to indicate the names of casual labour, substitutes and temporary workmen who

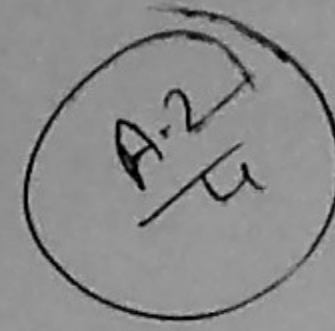
have rendered six months of service either continuous or in broken periods for the purpose of future employment as casual workmen and also as regular employees, provided they are eligible for regular employment.

The names should be recorded strictly in the order of their taking casual employment at the initial stage and for the purpose of empanelment for regular Group 'D' posts. They should, as far as possible, be selected in the order maintained in the aforesaid register..... Other conditions being equal, total length of service as casual labour, either continuous or in broken periods, irrespective of whether they have attained temporary status or not should be taken into account so as to ensure that casual labour who was senior by virtue of longer service are not left out."

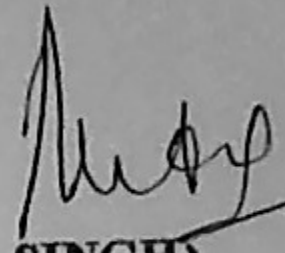
3. As the provisions of law governing the subject of regularization are quite clear, there was absolutely no reason why persons juniors to the applicants should have been regularized in preference to them. The learned counsel for the applicants submits that since her clients have already made representations on the subject and there is no answer from the respondents on the points raised, she will be satisfied if a direction is issued to the competent authority to decide these representations on merits and in accordance with law, within a reasonable time frame.

4. I have considered the matter. I feel that instead of directing the authority to consider the various representations made by the applicants, let this O.A. itself be treated as a representation by the respondents, who will consider the facts brought out in it and decide the same in accordance with the provisions of law within a period of three months from the date of receipt of a certified copy of this order.

5. The O.A. is disposed of accordingly.



6. Smt. Shika Singh, who is on the panel of counsel for the Railway Administration, receives copy of the O.A. for necessary instructions and decision by the respondents within the period allowed.


(A.K. SINGH)
MEMBER (A)

psp.