

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
 XXXXXXXX

O.A. No. 506 1989

0

DATE OF DECISION 26.6.1990

Janak Singh Madho Singh Petitioner

Mr. B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Anr. Respondent

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.K. Jain .. .. Judicial Member

The Hon'ble Mr. M.M. Singh .. .. Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *N*
3. Whether their Lordships wish to see the fair copy of the Judgement? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal? *N*

Janak Singh Madho Singh,  
Qr. No. 12/T-5,  
Near RPF Office,  
Rajkot.

.. Applicant

(Advocate - Mr. B.B. Gogia)

Versus

1. Union of India,  
Through: General Manager,  
Western Railway, Churchgate,  
Bombay.
2. Divisional Railway Manager,  
W.Rly., Rajkot Division,  
Kothi Compound,  
Rajkot.

.. Respondents

(Advocate - Mr. B.R. Kyada)

O.A./506/89

Present : Counsel for the applicant

Counsel for the respondents.

Date : 26.6.1990

(Per : Hon'ble Mr. S.K. Jain .. Judicial Member)

It appears from Annexure A-1 (page 11) that the applicant had left service on his own on 24.4.1980. Learned counsel for the applicant submits that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents. Learned counsel for the respondents agrees that the application for fresh appointment will be duly considered by the respondents. We order accordingly. No other relief is sought. O.A. stands disposed of accordingly.

M. M. Singh  
( M M Singh )  
Administrative Member

S. K. Jain  
( S K Jain ) 26/6/90  
Judicial Member

C.A. 51/90  
in  
O.A. 506/89

(u)

Date	Office Report.	Order
29-5-91	<p>Present: None for the applicant.</p> <p>Mr. B.R.Kyada, learned counsel for the respondents.</p> <p><i>Not yet informed</i></p> <p><i>Solve 15/5/91</i></p>	<p><u>ORDER</u></p> <p>Learned counsel for the respondents may in the meantime find out the disposal of the applicant's representation dated 7.7.90 and inform before the next date of hearing.</p> <p><i>S. Santhana Krishnan</i> (S. Santhana Krishnan) Judicial Member</p> <p><i>M. M. Singh</i> (M.M. Singh) Admn. Member</p> <p>ttc.</p>

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

A H M E D A B A D B E N C H

C.A./51/90

O.A. No. in 1989

Case No. 506 of

(S)

DATE OF DECISION 16.7.1991

Shri Janak Singh Madho Singh Petitioner

Shri B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India &amp; Anr. Respondent

Shri B.R. Kyada Advocate for the Respondent(s)

## CORAM :

The Hon'ble Mr. M.M. Singh .. .. Administrative Member

The Hon'ble Mr. S. Santhana Krishnan .. .. Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*2. To be referred to the Reporter or not? *Mo*3. Whether their Lordships wish to see the fair copy of the Judgement? *No*4. Whether it needs to be circulated to other Benches of the Tribunal? *Mo*

Shri Janak Singh Madho Singh,  
Railway Quarter No. 12/F-5,  
Near RPF Office,  
Rajkot.

: Applicant

(Advocate - Mr. B.B. Gogia)

Versus

1. Union of India,  
Through :  
General Manager, W.Rly.,  
Churchgate,  
Bombay - 400 020.
2. Divisional Railway Manager,  
Western Railway,  
Rajkot Division,  
Kothi Compound,  
Rajkot.

: Respondents

(Advocate - Mr. B.R. Kyada)

CORAM : Hon'ble Mr. M.M. Singh

: Admv. Member

Hon'ble Mr. S. Santhana Krishnan: Judicial Member

C.A./51/90

in

O.A./506/89

O R A L - O R D E R

Dated : 16.7.1991

Per : Hon'ble Mr. M.M. Singh .. Administrative Member

This contempt application has been filed alleging contempt made by the respondents of order dt. 26.6.1990 passed by a Bench of this Tribunal in O.A./506/89 in terms that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents and that the learned counsel for the respondents agreed that the application for fresh appointment will be duly considered by the respondents. The matter was finally disposed of with that order accordingly.

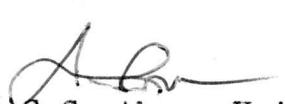
*h. n. [Signature]*

2. It is alleged that the applicant had sent a representation dated 7.7.1990 under acknowledgement due to the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot and he has annexed a xerox copy of the acknowledgement due. On the basis of this material document, it is alleged that the respondents have committed contempt of the order.

3. The applicant having produced evidence of the representation dated 7.7.1990 having been sent to the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot under acknowledgement due, <sup>There is a</sup> this basis <sup>for M</sup> the inference that the order dt. 26.6.1990 of this Bench has not been carried out by the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot. However, the Bench order dated 26.6.1990 does not specify any time schedule within which respondents were required to <sup>will be</sup> dispose of a representation when made. <sup>No stipulation</sup> in the order with regard to the time <sup>of disposal</sup> from the date of the representation made. <sup>We are of the view that the</sup> allegation will not attract the provision of law of contempt.

4. We, however, feel that in the interest of justice, the respondents should be put to consideration of the representation dated 7.7.1990. Copy of this representation may be furnished by learned counsel Mr. Gogia to learned counsel Mr. Kyada for the respondents and Mr. Kyada assures that he will have the matter properly decided.

5. The C.A./51/90 finally disposed of by our above order.

  
(S Santhana Krishnan )  
Judicial Member

  
( M M Singh )  
Admv. Member

Sl. No 434/FS  
19/5

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 506 /89

Shri Janak Singh, Madho Singh  
Qr.No.12/T-5,  
Near RPF Office,  
RAJKOT

•• APPLICANT

versus

1) Union of India  
Through: General Manager,  
Western Railway,  
BOMBAY

2) Divisional Railway Manager,  
Rajkot

•• RESPONDENTS

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Sr. No.	Descriptions of documents relied upon	Page No.
01.	Application	01-07
02.	A/1 Copy of service card No.072744	08-12
03.	A/2 Copy of XMR Message No. EC/891/18 dt. 16.4.86	13
04.	A/3 Copy of Railway Board's letter No.E(NG)II/84/CL/41 dated 11.9.1986	14-17

Rajkot/Ahmedabad

Date: 19/9/89

SHRI JANAK SINGH  
(Applicant)

For use in Tribunal's Office

-----  
Date of filing

or

Date of receipt by post

Registration No.

-----  
Signature  
for Registrar

1  
BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 506 /89

Shri Janak Singh, Madho Singh  
Hindu, Adult, aged about 27 years  
Occupation: Rly.Qr.No.12/T-5,  
Near RPF Office,  
RAJKOT

The applicant was employed as a  
Khallas under Chief Signal  
Inspector, Western Railway,  
RAJKOT

:: APPLICANT

Versus

- 1) Union of India  
Owning & Representing  
Western Railway,  
Through:  
General Manager,  
Western Railway,  
Churchgate,  
BOMBAY
- 2) Divisional Railway Manager,  
Western Railway,  
Rajkot Division,  
Kothi Compound,  
RAJKOT

:: RESPONDENTS

DETAILS OF APPLICATION

1. Particulars of the order against which the application is made.

i) Order No.	:	The present petition is
ii) Date	:	against the non observance
iii) Passed by	:	of the provisions contained in Section 25(H) of
iv) Subject in brief	:	the Industrial Disputes Act and Rules 87 and 88 of the Industrial Disputes (Central) Rules 1957

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

2

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case

i) The applicant begs to state that he was engaged as a Khallasi on 2.1.1980 and worked upto 23.4.1980 under District Signal & Telecommunication Engineer (Construction), Western Railway, Rajkot. Thereafter, he was again called and re-engaged on 27.2.1985 and he continued as such upto 16.9.1985 as Khallasi under Chief Signal Inspector ~~EX~~ Rajkot Division under Divisional Signal & Telecommunication Engineer, Rajkot Division. Both the departments are related to the Signal & Telecommunication working on Western Railway.

In the later spell he worked for 147 days continuously, thus ~~has acquired temporary status.~~ and thereafter his services were terminated due to

non availability of further ELA. This has been recorded on page 8 of the service card given to him. Copy of

A/1

h/s

the service card is annexed herewith as Annexure A/1.

~~such termination w.e.f 16-9-85 was without service of one month notice or pay in lieu, such termination is null & void.~~

ii) The applicant submits according to Section 25(H)

of the Industrial Disputes Act and rules 87 and 88 of the Industrial Disputes(Central)Rules 1957 before the services of a workman is retrenched, a seniority list should be exhibited at least 7 days before the retrenchment, his name should be registered in a register and as and when work is available the retrenched employees should be called and the ones report should be re-engaged in preference to others. When the applicant

was retrenched all these formalities were to have been observed. However, admittedly, none of these formalities was observed. For the convenience of the honourable Tribunal, section 25 (H) of the I.D. Act and rules 77 and 78 of the Industrial Disputes (Central) Rules 1957 is reproduced below:

"25-H. Re-employment of retrenched workmen - Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen (a) who offer themselves for re-employment shall have preference over other persons."

"The Industrial Disputes(Central)Rules, 1957

77. Maintenance of seniority list of workmen - The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

78. Re-employment of retrenched workmen -(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter."

iii) The applicant submits that scores of workmen who were engaged after the initial engagement of the applicant are either continued in service or such people were recalled and re-employed. As per the rules mentioned in para (ii) above the applicant had prior claim for re-employment. However, he was not recalled or re-employed.

iv) The applicant also draws the attention of the honourable Tribunal to an XXR message No. EC/891/18 dt.

14.6.1986 addressed to various subordinates, the instructions issued under this XXR is as given below.

(3)

"All Substitutes who were engaged after 18.12.80 but before 14.7.81 will now be considered as old faces. They may therefore be engaged as per turn against vacancies. No substitutes engaged after 14.7.1981 should be engaged under any circumstances."

Copy of the above XKR message No. EC/391/18 dated 16.4.1986

A/2 is annexed herewith as Annexure A/2. The applicant submits in terms of the above XKR message he was treated as an old face since he was initially engaged before the crucial date of 14.7.1981 and that was why he was re-engaged during the second spell.

v) Further according to the judgement of the Hon'ble Supreme Court of India in Inderpal Yadav v/s Union of India reported in 1985(2) SLJ Page 58 (Supreme Court) Railway Board has issued a circular bearing No.E(NG)II/84/CL/41 dated 11.9.1986 on the basis of the above judgement provides that there will be combined seniority list of casual labourers of Open Line and Construction on the basis of the Division. Accordingly the respondents are expected to have prepared a seniority list of casual labourers of construction & open line of Rajkot Division. Copy of Railway Board's letter dated

A/3 11.9.1986 is annexed herewith as Annexure A/3. The applicant also submits that there are number of new faces appointed in the Construction as well as in Open Line after 16.9.1985 without recalling the applicant and giving him preference for the post.

#### 5. Grounds for relief with legal provisions

i) Violation of the provisions contained in section 25(H) of the Industrial Disputes Act read with Rules 77 & 78 of the Industrial Disputes(Central) Rules 1957.

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AU

- ii) Discrimination in the matter of public employment in violation of articles 14 and 16 of the Constitution of India.
- iii) The applicant is entitled to be re-engaged/re-appointed in class IV service of the respondents in preference to whose who were initially recruited after the appointment of the applicant both in Construction & ~~and~~ in Open Line. This has not been done in contravention of the rules framed by the Railway Board as directed by the Supreme Court of India, as can be seen from Annexure A/3.
- iv). Even as per Annexure A/2 the applicant is entitled for re-appointment since he is to be treated as an old face.

#### 6. Details of remedies exhausted

The applicant submits that he has no remedies available as per the statutory rules of the respondent department.

#### 7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

#### 8. Reliefs sought

- A) The respondents may please be directed to re-appoint the applicant in accordance with section

25(H) of the Industrial Disputes Act read with rules 87 and 88 of the Industrial Disputes (Central) Rules 1957 on the first available vacancy and/or in accordance with the position in the seniority list with all the consequential benefits from the date he was due for such re-appointment.

B) The respondents may please be directed to declare to the applicant his seniority position <sup>as per rules 77 of the Industrial Disputes (Central) Rules 1957 if prepared</sup> on the seniority list <sup>as per rules 77 of the Industrial Disputes (Central) Rules 1957 if prepared</sup> and in case it is not prepared the respondents may please be directed to prepare the same and declare the same to the applicant about his position in the seniority list, including the names of those who were engaged after his discontinuance from service.

9. Interim order, if any preyed for :

NIL

10. In the event of application being sent by registered post, it may be stated whether the applicant desired to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

NOT APPLICABLE.

11. Particulars of Postal Order filed in respect of Application fee.

1. Number of Indian Postal Order(s) : 22287175
2. Name of the issuing Post Office : Mohit Bazar - P.S.
3. Date of issue of Postal Order(s) : 7-9-89
4. Post Office at which payable : P. Bazar

12. List of enclosures

- 1) Postal Order as per the details given in para 11.
- 2) Vakalatnama
- 3) Copies of annexures from Annexure A/1 to Annexure A/3.

(b)

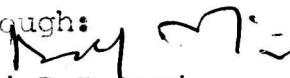
VERIFICATION

I, Janaksingh, son of Shri Madhosingh, aged about 27 years working as : At present unemployed resident of Rajkot do hereby verify that the contents of paras 1 to 3 and 6 to 12 are true to my personal knowledge and paras 4 to 5 believed to be true on legal advice and that I have not suppressed any material fact.

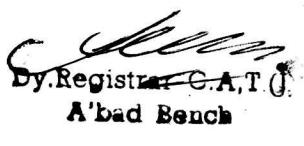
Rajkot/Ahmedabad

Date: 19/9/88

જનકસિંહ મધોસિંહ બિંડુ  
(APPLICANT)

Through:  
  
 Shri B.B. Gogia,  
 Advocate,  
 RAJKOT

B.B. Gogia  
 filed by Mr... ....  
 Learned Advocate for Petitioners  
 with second set & .... copies  
 copies copy served/not served to  
 other side

Dt. 19/9/88   
 By Registrar C.A.T.O.  
 A'bad Bench

Annex-A-1

WORKERS RECORD

LETT No. 101

115/ERI

116/ERI

item No. 172744

WESTERN RAILWAY

नेपाली राज्य रथ  
भारा-प्रकार

RECORD OF SERVICE  
AS CASUAL LABOUR

WRP. 6/CG/104/2/26/100/6

6. रोजगार के समर्थन में किसी दूसरे रूप में प्रस्तुत की गई साथ्य पर व्यापक नहीं दिया जाएगा।

Any other form of evidence in support of his employment will not be taken cognisance of.

7. कार्डधारी को इस कार्ड का किसी भी प्रकार से दुश्पर्योग करने पर सभी रेल सेवाओं के लिए अद्योग्य माना जा सकता है।

Any misuse of this card shall render its owner liable for being disqualified from railway service of all kinds.

पहली नियुक्ति के स

Particulars to be fill

Block/Depot/Office No.

फोटोग्राफ़ ( भारतीय साधारणता )

( मातहत द्वारा साधारणता )

Photograph

( Attested by the subordinate )

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पहली नियुक्ति के समय भरा जाने वाला व्यौरा  
व्यक्ति का विवरण

Personal Details to be filled in on First Appointment

- पूरा नाम  
(बड़े अक्षरों में) SHRI - JANAK SINGH  
Name in full  
(In Block letters)
- पिता का नाम SHRI MADHOSINGH  
Father's name
- जन्म तिथि Seventh January (1962)  
Date of Birth Native (Sixty two) as per  
School Certificate
- आरम्भिक नैमित्तिक नौकरी के समव आयु 19 yrs  
Age at initial casual employment
- शिक्षा योग्यता 10th Pass  
Educational Qualification
- पहचान चिह्न  
Personal marks of  
Identification
 

(i)	one Black mole
	on under left
(ii)	left side Chest.

7. आरम्भिक नौकरी के समय कार्य का स्थल Khalsa  
Nature of Job on initial employment,

8. स्थायी पता Rly - Ro-12/T-F

Permanent address Near RPF - Office

आक घर RAJKOT

Post Office

पाला RAJKOT

Police Station

तहसील RAJKOT

Tehsil

जिला भौर राज्य RAJKOT - GUJARAT

District & State

9. वारिस का पूरा नाम Shri Madhu Singh

Name in full of heir

10. विवरण Father

Relationship

11. वारिस का स्थायी पता Same as St. no. 8

Permanent address of heir on page no. 5

पता Shri Janak Singh M.

नीमित्तिक मजदूर के हस्ताक्षर  
अधिकारी वांये अंगूठे का निशान  
Signature of L. T. I.  
of the Casual Labour.

4/17-No. 1017

नीमित्तिक मजदूरों का सेवा-रिकार्ड  
Record of Service as Casual Labour

आरम्भिक नौकरी की तारीख 02-1-80  
Date of initial employment

नौकरी की अवधि Period of employment		कार्य Nature of assignment	पर्यंतक के हस्ताक्षर और पदार्थ, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To		
02-1-80	23-4-80	Khalsa	<p>= 112 Yrs day 5 (One year and twelve days)</p> <p>From 24-4-80, i.e. from his own accord.</p> <p>मुहर पंजाब (जिला) मुख्य नियंत्रक, राज्य सेवा</p>

नैमित्तिक मजदूरों का सेवा-रिकार्ड  
Record of Service as Casual Labour

आरम्भिक नौकरी की तारीख.....  
Date of initial employment

नौकरी की अवधि Period of employment		कार्य Nature of assignment	पर्वेशक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To		
12/85	16/9/85	Exhalosi 147 days Date: 16/9/85 Age: 40 from 12/85 in the possession of father E.A. <i>[Signature]</i>	पर्वेशक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date

प्रमाण संकेत विरीक्षक  
M. R. राज्योत्तम  
Chief Signal Inspector  
M. R. V. W. R. I.

नैमित्तिक मजदूरों का सेवा-रिकार्ड  
Record of Service as Casual Labour

आरम्भिक नौकरी की तारीख.....  
Date of initial employment

नौकरी की अवधि Period of employment		कार्य Nature of assignment	पर्वेशक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To		

True Copy

*[Signature]*  
Advocate

Honourable A-3 ~~Casual labour~~  
Honourable A-2

23

WESTERN RAILWAY  
SERVICE PERSONNEL

Code : XAR

From : DRM (E) RJT

To - All GMs, TIs, CMIs & RJT Division

No. EC/891/18

Date : 16-4-1986.

22

All substitutes/casual labours engaged prior to 14-7-81 may be continued as old faces. ~~XAR~~ Cut off date will be 14-7-81 and not 18-12-80 XAR

Orderly  
for DRM (E) RJT

Confirmed by dsk.

All Substitutes who were engaged after 18-12-80 but before 14-7-81 will now be considered as Old faces. They may therefore be engaged as per turn against vacancies. No substitutes engaged after 14-7-81 should be engaged under any circumstances.

Orderly  
for DPO/RJT.

Copy to : DCS/ACS/ADS - RJT  
ARS MSA/ AHO HEP  
Divil. Secretary WDEU/ADS - RJT

True Copy

pkv/16/4/86.

  
Advocate

True Copy

  
Advocate

# Annex-A-3

R.R.E. No. 167/86

Government of India  
Ministry of Transport  
Department of Railways (Railway Board).



No.E(NG) II/84/CL/41

New Delhi, dated: 11.9.86.

The General Managers,  
All Indian Railways  
including production units,

The General Manager,  
Metro Railway, Calcutta.

The Chief Administrative Officers,  
MTR, Bombay, New Delhi, Madras.

The General Manager,  
Wheel and Axle Plant,  
Bangalore.

R.R.E. No.167/86

The Director General R.D.S.O.,  
Lucknow.

The Chief Engineer,  
Railway Electrification  
Allahabad.

The General Manager(Const.),  
Southern Railway, Bangalore.

The General Manager(Const.),  
N.F. Railway, Gauhati.

Sub:-Project casual labour-terms of employment of .  
00000

Reference Ministry of Railways now Department of Railways letters of even number dated 1.6.84 and 25.6.84 on the above subject.

The scheme outlined in para 5.1 of the Ministry of Railways letter of even number dated 1.6.84 read with the letter dated 25.6.84 for treating project casual labour as temporary, was placed before the Honourable Supreme Court in Writ Petitions No.147, 320-69, 454, 4335-4434/83 etc. Inderpal Yadav & Ors. etc. Versus Union of India and Ors. etc. The Supreme Court has approved the scheme subject to modifications indicated in the judgment dated 18.4.85, copy of which is enclosed.

3. Keeping in view the direction given by the Supreme Court in the said judgment and in their orders dated 11.8.86 (copy enclosed) para 5.1 of the aforesaid letter of 1.6.84 should be substituted by the following, the other provisions of the same remaining unaltered:

"5.1 As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on project (also known as "Project casual labour") may be treated as temporary ( temporary status) on completion of 360 days of continuous employment. The Ministry have decided further as under:

(a) These orders will covers

(u) TB

(i) Casual labour on projects who were in service as on 1.1.1981 and  
 (ii) Casual labour on projects, who though not in service on 1.1.81, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after 1.1.1981.

(b) The decision should be implemented in a phased manner according to the schedule given below:-

Length of service (i.e. continuous employment).	Date from which may be treated as temporary (temporary status)
i) Those who have completed five years of service on 1.1.1981	1.1.1981.
ii) Those who have completed three years but less than five years of service as on 1.1.1981	1.1.1982.
iii) Those who have completed 360 days but less than three years of service as on 1.1.1981.	1.1.1983.
iv) Those who completed 360 days after 1.1.1981	1.1.1984 or the date on which 360 days are completed whichever is later.

4. Accordingly in para 1 and 2 of the Ministry of Railways letter dated 25.6.84, the date "1.1.84" may be read as "1.1.81". The dates occurring in hypothetical illustrations given in para-3 thereof would stand modified correspondingly.

5.1. As directed by the Supreme Court for implementation of the above scheme, each zonal railway should prepare a list of project casual labour with reference to each division of each Railway on the basis of length of service. The men with longest service shall have priority over those who have joined later on. In other words, the principle of last come first go (or to reverse it, first come last go) as enunciated in Section 25 G of the Industrial Disputes Act, 1947 should be followed.

5.2 The following instructions are given in this regard for guidance of the Zonal Railways.

5.2.1. On each Zonal Railway, the list of project Casual Labour will be prepared for each Division, as under:-

- i) Project casual labour employed on works of each of the "departments" like Civil Engineering, Signal and Telecommunication, Electrical etc. within the geographical boundaries of a division (irrespective of whether the works are executed by a Division or by the Construction Organisation or by the Chief Project Manager/Railway Electrification reporting to the General Manager of a Zonal Railway) will form one unit (separately for each department) for which one seniority list will be prepared for each department. In this manner, for each of the departments in each division, there will be one separate list of project casual labour employed on works executed within that Division.
- ii) Within each Department, the seniority list will be prepared according to categories, as under:-
  - (a) All unskilled casual labour will be treated as one category.
  - (b) Semi skilled casual labour, will be treated trade-wise.
  - (c) Skilled casual labour will be treated trade-wise.

iii) In cases where the execution of a project spreads over more than one division, the guiding principle will be that all the project casual labour will be assigned to the Division in which the station where they were initially engaged is located. This will be covered by the directions of the Hon'ble Supreme Court that where the implementation of its direction involves some adjustment, the same must be done.

5.2.2. It is hereby clarified that extra-zonal Railway organisations like Metro Railway would continue to maintain the seniority lists of project casual labour as before, without taking a division of a Zonal Railway as a reference point. In doing so, they should comply with, among other things, the relevant provisions of the Industrial Disputes Act, 1947 and the rules made thereunder.

5.2.3. The seniority list of project casual labour engaged by project organisations will be recast by the Zonal/Construction Railway administrations in the aforesaid manner as on the 1st April, 1985 to cover all project casual labour who have been in employment at any time from 1.1.1981, onwards. The lists so prepared will be used for any subsequent engagement/re-engagement/discharge of project casual labour. Any such discharge, where so warranted, due to reduction or completion of work or for other administrative reasons will be effected after complying with the relevant provisions of the Industrial Disputes Act, 1947, the Industrial Disputes (Central)Rules, 195 and the orders applicable to project casual labour.

6. Steps may be taken immediately for implementation of the orders contained in the Deptt. of Railway's letters of 1.6.84 and 25.6.84 aforesaid as modified above on the basis of the judgment of the Supreme Court. Due verification of claims in each individual case will, no doubt, be done by the respective Railway Adminis-

7.1 The process of preparation of seniority list and action as directed above, must be completed within two months from 11th August, 1986 as per orders dated 11.8.86 of the Hon'ble Supreme Court. To ensure full implementation of the orders of the Supreme Court, a committee comprising a D.P.O., a DEN, a DEN(Constituents) on each division will meet and review the implements every week. Similar Committee should function for each of the other Department engaging project casual labour. Similarly in the Headquarters of each Zonal Railway, a committee comprising the CPO, the C.E., C.E.(Constituents) CATE and CEE should review the implementation of these orders each fortnight till the court's decision is implemented. The Personnel Officer on these committee will act as a coordinating officer of the respective committees for the purpose of monitoring the progress of implementation. A detailed report in this regard should be sent to the Board in phases, the first by 30th September, 1986 and the second by 15th October, 1986.

7.2 The Department of Railways also desire that in every Departt. engaging project casual labour in each division of each Railway, an officer, not lower in rank than Senior scale must be nominated who will be responsible for maintaining the combined seniority list of project casual labour of his Department and for co-ordinating with other officers of that department so as to ensure proper operation of the list in the manner detailed in para 5.2.3 supra in terms of these orders. This list must be reviewed by the said officer at least once a year before 30th September of every year. The officer so nominated should be one suitable to handle a tasks of this type.

8. This issues with the concurrence of the Finance Directorate of the Department of Railways.

9. Please acknowledge receipt.

Sd/-  
(M. Kujur)  
Deputy Director Establishment  
(N), Railway Board.

Item No.18

Court No.1

Section- X

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS.

Civil Miscellaneous Petition Nos. 40897/85 (In WP Nos.147 &  
320-69 of 1983).  
WITH SLP(Cvl. ) Nos. 4777-80/82 A/N.

1) Inder Pal Yadav & Ors.  
2) Ramesh Prasad etc. etc.

PETITIONERS/APPELLANTS.

VERSUS

Union of India and Ors.  
1) (For Clarification)  
2) (with office report)

RESPONDENTS.

Date: 11.8.1986 : This matter was called on for hearing today.

COURT: Hon'ble Chief Justice  
Hon'ble Mr. Justice. V. Balakrishna Eradi.  
Hon'ble Mr. Justice Ranganath Misra.

For the petitioners: Mr. Anis Suhrawardy, C.P. Pandy Advocate.  
Mr. M.P.Jha, Advocate.  
Mr. L.N. Sinha, Sr. Advocate.

For the Respondents: Mr. T.S.K. Iyer, Sr. Ms, H. Khatun,  
C.V. Rao, Advocate,  
Mr. V.C. Mahajan, Sr. Adv.  
Mr. D. Bhandari, Advocate

UPON hearing counsel the court made the following

ORDER

We are of the view that the Scheme prepared by the Railways setting out the list of project casual labour with reference to each department in each Division and also in regard to each category, namely, skilled, semi-skilled and unskilled is in compliance with the judgment and order dated 18.4.86 given by this Court and that absorption of these with the longest service be made in accordance with such list. Mr. Krishnamurti Iyer states that this process will be completed within two months from today. The matter is disposed of in these terms.

sd/-  
(J.S.Bahri)  
COURT MASTER.

True Copy

Advocate

True Copy

Advocate

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

CONTUMPT APPLICATION NO:

51 /90

IN

ORIGINAL APPLICATION NO: 506 OF 1989

Shri Janak Singh Madho Singh,  
Railway Quarter No.12/P-5,  
Near RPF Office,  
RAJKOT

:: APPLICANT

Versus

E. Sreenivasan General manager

1) Union of India,  
Owning & Representing  
Western Railway,  
Through:  
General Manager,  
Western Railway,  
Churchgate,  
BOMBAY - 400 020

N. C. Bindlish D.L.M

2) Divisional Railway Manager,  
Western Railway,  
Rajkot Division,  
Kothi Compound,  
RAJKOT

:: RESPONDENTS

The applicant respectfully begs to submit as  
under:-

2) The applicant was originally engaged as a  
Khallasi on 2.1.1982 and continued as such under the  
DSTE(C) Western Railway, Rajkot. Again he was re-

engaged on 27.2.1985 as a Khallasi and worked upto  
16.9.1985 for 147 days under Chief Signal Inspector,

Western Railway, Rajkot (Open Line). By virtue of  
his continuous working for a period of more than 120  
days he had acquired the temporary status by operation



of the rules.

(28)

3) The applicant had filed an Original Application bearing No.506 of 1989 before this honourable Tribunal praying for directives to the respondents to re-appoint ~~the~~ the applicant in accordance with section 25(H) of the Industrial Disputes Act read with rule 87 and 88 of the Industrial Disputes(Central)Rules 1957 on the first available vacancy and/or in accordance with the position in the seniority list with all the consequential benefits from the date he was due for such re-appointment.

4) The applicant also submits that when the matter was heard by this honourable Tribunal that learned counsel for the Respondents had undertaken that the application that may be made by the applicant for fresh appointment will be duly considered by the respondents. With this observation the matter was disposed of by this honourable Tribunal vide orders dated 26.6.1990.

5) Accordingly the applicant vide his application dated ~~xx~~ 7.7.1990 approached the Respondent No.2 for his re-engagement. This was received in the office of the Respondent No.2 on 24th July 1990. The application dated 7.7.1990 together with the postal

A/1 acknowledgement is annexed herewith as Annexure A/1

Cumulatively. The oral order of the honourable Tribunal



A/2

is annexed herewith as Annexure A/2.

69

6) The applicant submits that even though a period of three months has passed after the Respondent No.2 received the application of the applicant, no action has so far been taken to offer appointment to the applicant in disregard to the orders/directives given by this honourable Tribunal. The applicant therefore prays that necessary punitive action may be taken against the Respondents.

7) For this act of kindness and justice this applicant shall ever pray for.

Rajkot/Ahmedabad

Date: 23/10/96  
5/12Janak Singh Madho Singh  
(APPLICANT)AFFIDAVITN. S.  
(B. B. Sagar)  
Advocate

I, Janak Singh Madho Singh, son of Shri Madho Singh, Hindu, Adult, Aged about 28 years, Occupation: Unemployed, resident of Rajkot, do hereby declare on solemn affirmation that whatever is stated from para 1 to 7 above are true and correct to the best of my knowledge and belief and I have not suppressed any material fact.



I state the above on oath.

Rajkot

Date: 23/10/96  
~ 4 explained in Gujarati  
Identified by  
N. M. Pandya  
(Advocate)Janak Singh Madho Singh  
(DEPONENT)

solemnly affirmed before me  
Shri. Janak Singh Mehta, Esq.  
who is identified by Advocate Choksi  
Shri. Miss Preacher on Pandya,  
who is known to me.

Raikot. Dated: 23-10-90



Case No. 245 of 1990  
Served on Mr. B. B. Garg, Esq.  
Advocate for Petitioners

Filed by Mr. B. B. Garg,  
Learned Advocate for Petitioners  
with second set & <sup>2</sup> copies  
copies copy served/not served to  
other side

to other side in the manner mentioned in the petition. (P)  
Dated 23/10/90 By Registrar C.A.T.(J)  
Abad Bench

From

Janak Singh Madho Singh,  
Railway Quarter No.12/T-5,  
Near RPF Office,  
RAJKOT

To

The Divisional Railway Manager,  
Western Railway,  
Kothi Compound,  
RAJKOT

Rajkot  
7.7.1990

30

Respected Sir,

Sub: Reinstatement - requested for

Ref: Judgement delivered by the hon'ble CAT  
Ahmedabad in OA No.506/89 delivered on  
26.9.1990

The honourable CAT Ahmedabad vide judgement delivered on 26.6.1990 directed me to represent my case before your honour within 15 days from the date of judgement. I therefore represent my case as under with a request to kindly look into the matter and offer my re-engagement from the date due.

I was initially engaged as a Khallasi on 2.1.1989 and worked upto 23.4.1980 under DSTE(C) W.Rly. Rajkot. After my discontinuation from 23.4.1980 I was offered engagement from 27.2.1985 under Chief Signal Inspector, Western Railway, Rajkot (Open Line) and I continued under the services of CSI RJT upto 16.9.1985 as a Khallasi. In the later period, I had continuously worked for 147 days. This means I had acquired temporary status by operation of the rules, i.e. on completion of 120 days continuous service.

I beg to submit that before discontinuing the services of the undersigned list of all workmen in the category of Khallasi from which retrenchment is contemplated arranged according to the seniority of their services and a copy of the same was not pasted on the notice board in a conspicuous place in the premises of the industrial establishment, i.e. CSI's office, at least seven days before the actual date of retrenchment as required under rule No.77 of the Industrial Disputes (Central) Rules 1957 and hence my retrenchment/discontinuation is in violation of the same statutory rule.

I may also bring to your kind notice that the persons engaged after my initial engagement in the railways continued while retrenching my services by the CSI RJT. Hence this retrenchment/discontinuation was in violation of provisions contained in section 25-G of the Industrial Disputes Act.

Section 25-N(c) stipulates that prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette has been obtained on an application made in this behalf before retrenching the workmen. However, in violation of this, no such permission has been obtained while discontinuing/ discontinuing/ retrenching my services.

Several people junior to me have been re-engaged bye-passing my claim in violation of the provisions contained in section 25-H of the I.D.Act.

According to the XXR message issued by the DRM(E) RJT, vide No. EC/891/18 dated 14.6.1986 addressed to various subordinates, all substitutes/casual labourers who were engaged after 18.12.1980 but before 17.4.1981 will be considered as old faces. The senior subordinates were instructed to engage the old faces as per turn against vacancies. It was also stated that no substitutes engaged after 14.7.1981 should be engaged under any circumstances. Since I was originally engaged on 2.1.1980 I should have been treated as old face and the benefits/ privileges available to the old faces including re-engagement etc. should have been extended to me, in violation of railway's own rules.

I may also point out that according to Rule No.2302 services of a temporary railway servant shall be liable to termination on 14 days' notice on either side. Since I have completed more than 120 days service continuously on the ~~post~~ post, by operation of rules I had acquired temporary status and hence discontinuing/retrenching my services without notice of 14 days is in violation of the said rule No.2302 of the IREM.

## प्राप्ति स्विकृति (रसीद)

प्रत्येक

ACKNOWLEDGEMENT

\* एक रजिस्ट्री पत्र / पोस्टकार्ड / पेकेट / पार्सल प्राप्त हुआ

\* रजिस्टर्ड पत्र / पोस्टकार्ड / पार्सल मर्जुन / मर्जो.

\* Received a Registered Letter / Post Card / Packet / Parcel  
Insured

पाने वाले का नाम To, The Divisional Railway Manager,

प्रामिकर्ता नाम Western Railway, Kothi Compound,

Addressed to (Name)

† दोनों तरफ रजिस्ट्रेटेड पत्र

† Insured For Rupees

दितरणकी तारीख / वितरणकी तारीख / Date of Delivery

क्रमांक  
नं. ५३  
No.

26

\* अवधारक को काट दिया जाए

\* अद्वितीय तो आवश्यक छेदी नाही

\* Score Out The Matter Not Required

केवल बीमा वस्तुओं के लिए/भाग दीमें। उत्तरांचल वस्तुओं भागे।

† For Insured Articles Only

पाने वाले के हस्ताक्षर  
Signature of  
Addressee

24. 11. 1990

24. 11. 1990



AZ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

O.A. No.  
~~506~~

506

1989

CALL

(SU)

DATE OF DECISION 26.6.1990

Janak Singh Madho Singh **Petitioner**

Mr. B.P. Gogia **Advocate for the Petitioner**

Versus

Union of India & Anr. **Respondent**

Mr. B.P. Kyada

**Advocate for the Respondent**



**CORAM**

The Hon'ble Mr. S.N. Jain .. .. **Judicial Member**

The Hon'ble Mr. ... Singh .. .. **Administrative Member**

Janak Singh Madho Singh,  
Gr. No. 12/T-5,  
Near RPF Office,  
Rajkot.

.. Applicant

(Advocate - Mr. B.B. Gogia)

Versus

1. Union of India,  
Through: General Manager,  
Western Railway, Churchgate,  
Bombay.

2. Divisional Railway Manager,  
V.Rly., Rajkot Division,  
Kothi Compound,  
Rajkot.

.. Respondents

(Advocate - Mr. B.R. Kyada)

C.P./506/89

Present : Counsel for the applicant

Counsel for the respondents.

Date : 26.6.1990

(Per : Hon'ble Mr. S.K. Jain .. Judicial Member)

It appears from Annexure A-1 (page 11) that the applicant had left service on his own on 24.4.1980. Learned counsel for the applicant submits that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents. Learned counsel for the respondents agrees that the application for fresh appointment will be duly considered by the respondents. We order accordingly. No other relief is sought. C.P. stands disposed of accordingly.



Prepared by : *R.K. Sane* 26/6/90

Compared by :

TRUE COPY

*R.K. Sane*

K. B. SANE

Section Officer (J)

General Administrative Tribunal,  
Ahmedabad Bench

Sd/-

(M M Singh)

Administrative Member

Sd/-

( S K Jain )

Judicial Member

True Copy

*R.K. Sane*

Advocate

In view of the above, I would humbly request you to kindly consider my case keeping in view of the above points and kindly grant me my bread by ordering my reinstatement at an early date, for which act of kindness, I shall ever remain thankful to you.

Thanking you,

Yours faithfully,

WATSON NIEGHAN SINGH

(JANAK SINGH MADHO SINGH)

True Copy

B. V. S. S.

Advocate