

B

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NOS. 158,160/94, 32,33,61,62,63,70 & 71/95.

(Cuttack, this the 29th day of May, 1997)

Kartika Maharana, etc.	....	Applicants
Union of India & others	....	Respondents

(FOR INSTRUCTIONS)

- 1) whether it be referred to the Reporters or not? Yes
- 2) whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

*Somnath Som*  
(SOMNATH SOM) 29.5.97  
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH; CUTTACK.

ORIGINAL APPLICATION NOS.158, 160/94, 32,33,61,62,63,70 & 71/95

Cuttack, this the 29th day of May,1997

CORAM:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

...

In OA 158/94

Kartika Maharana,  
son of late Nabaghana Maharana,  
Village-Mundal, PO-Kantia,  
PS-Jatni, District-Khurda

In OA 160/94

Nanda Kishore Nayak,  
son of Biswanath Nayak,  
At/PO-Kudiary, PS-Jatni,  
District-Khurda

In OA 32/95

Chintamani Mohapatra,  
son of Laxman Mohapatra  
At/PO-Rajabazar, PS-Jatni,  
District-Khurda

In OA 33/95

Jogendra Barik,  
son of Maheswar Barik,  
At-Jamukoli, P.O-Panchagaon,  
District-Khurda

In OA 61/95

T.V.Sri Rammurty,  
son of T.Bhaskar Rao,  
residing at Qr.No.469 Sector-A,  
At/PO/PS-Bandhamunda,  
Dist.Sundergarh

In OA 62/95

Pradip Kumar Swain,  
son of Uttam Charan Swain,  
At/PO-Chikania, PS-Tarpur,  
Dist. Jagatsinghpur

*Somnath Som*  
*29.5.97*

In OA 63/95

Rabindra Kumar Ghadei,  
son of late Kalu Ghadei,  
At-Bachhera, PO-Jatni,  
District-Khurda

In OA 70/95

Dhruba Charan Sahoo  
son of Natabar Sahoo,  
resident of Village-Sriramchandrapur,  
PO/PS-Jatni, District-Khurda

In OA 71/95

Satyananda Samantray,  
son of Biswanath Samantray,  
resident of vill/PO-Kudiary,  
PS-Jatni, Dist. Khurda

.... Applicants

-versus-

In all cases

1. Union of India, represented through  
its General Manager,  
South Eastern Railway,  
11, Garden Reach Road,  
Calcutta-700 043
2. Divisional Railway Manager,  
South Eastern Railway, Khurda Road,  
At/PO/PS-Jatni, Dist. Khurda
3. Divisional Personnel Officer,  
South Eastern Railway, Khurda Road,  
At/PO/PS-Jatni, District-Khurda

.... Respondents

Advocate for applicants -

Mr.P.C.Mohapatra

Advocates for respondents -

M/s B.Pal & O.N.Ghose

ORDER

SOMNATH SOM, VICE-CHAIRMAN

This is a batch of nine cases where the facts are similar and the respondents are the same. With the consent of the learned lawyer for the applicants and the learned senior Counsel appearing on behalf of the respondents, these cases are taken up together. Out of these nine cases, OA No.32/95 was heard separately and hearing was concluded on 25.4.1997. On that day,

*Somnath Som*  
*29.5.97*

the learned lawyer for the applicant did not appear and I heard only the learned Senior Counsel appearing on behalf of the respondents and closed the hearing. In the other eight cases, I have heard the learned lawyer for the applicants and the learned Senior Counsel appearing on behalf of the respondents. As earlier noted, the averments made in the applications and the counters in these nine cases are similar but with slight variations as to details and for noting that, facts of each case have to be briefly recorded separately.

2. In OA No.158 of 1994, the applicant has stated that he worked as a casual labourer from 5.1.1970 to 23.7.1970 for 190 days, after which no engagement was given to him. He has filed a working days certificate at Annexure-1 which does not, however, contain his name. He states that he represented to the Railway authorities as a retrenched casual labourer for re-engagement, but no consideration was shown to him. The respondents in their counter have stated that the applicant has no right to be considered for re-engagement after 24 years of his engagement and the claim is hopelessly barred by limitation. It is also to be noted that at the time of filing of this O.A. in 1994, the applicant was stated to be 56 years of age.

In OA No. 160/94 the applicant has produced a certificate that he worked at Khurda Road Railway Station from 1.4.1974 to 10.7.1974 as hot weather casual labourer. He has also filed another certificate that from 1.4.1975 to 10.7.1975 he worked again as hot weather casual waterman. He states that his representation for re-engaging him was not considered by the departmental authorities. The respondents in their counter have claimed that the applicant has no right to agitate his claim after

*Commented  
29.5.97*

10

such a long lapse of time. They have also stated that the claim of the applicant was got enquired into by an Inspector of the office of respondent no.3. From his report at Annexure-R/2 it appears that on verification of the attendance register for the years 1974 and 1975 it was found that the applicant did not work from 1.4.1974 to 10.7.1974 and from 1.4.1975 to 10.7.1975 and the certificates produced by him are false.

In OA No.32 of 1995, the applicant claims that he worked from 1.5.1979 to 29.7.1979 as a casual labourer at Paradeep Railway Station as the certificate at Annexure-1 given by Station Master would indicate. He also claims that he represented for his re-engagement which has not been considered by the respondents. In the counter the respondents have contended that during the relevant period from 1.4.1979 to 30.9.1979 two other persons, namely, Ram Sankar Das and Smt. Janaki were engaged as hot weather casual watermen at Paradeep Railway Station. The applicant was never engaged. The respondents tried to verify the claim by deputing one of the Chief Welfare Inspectors to Paradeep and he reported that as no records of 1979 were available, the genuineness or otherwise of the service record produced by the applicant could not be verified. The respondents have prayed for dismissal of the O.A. on the ground of delay.

In OA No.33/95, the applicant claims that he worked for three days in Dhanmandal Railway Station as casual hot weather waterman from 28.6.1983 to 30.6.1983 as per the certificate (Annexure-1). His representation filed in 1993 for re-engagement has not been considered. The respondents have stated in their counter that on the basis of engagement for three

Comm. M. Jm  
29.5.97

days, more than fourteen years ago, the applicant cannot agitate his claim and the O.A. is liable to be rejected on the ground of limitation and also on the ground of absence of merit.

In OA No.61 of 1995, the applicant claims that he worked as a casual gangman in Govindpur Road Railway Station from 24.3.1980 to 23.6.1980 and from 24.1.1981 to 23.3.1981. He has produced a certificate vide Annexure-1 of P.W.I., Govindpur Road Railway Station. The respondents in their counter have stated that a thorough enquiry was made about the certificate, but it was found that the signature of P.W.I. is not genuine. The then P.W.I, who is now Assistant Engineer, Chaibasa, was also contacted by the respondents and he confirmed that the signature in the certificate is not his. Hence the respondents claim that the certificate is a fabricated one and because of that as also on the ground of delay, the O.A. should be rejected.

In OA No.62 of 1995 the claim of engagement is from 1.4.1978 to 31.7.1978 at Radhakishorepur Railway Station. The respondents in their counter have stated that they have got the certificate (Annexure-1) verified. The staff muster roll of Radhakishorepur Railway Station was checked up and the Station Master reported on 24.2.1995 that the certificate should not be treated as genuine. On that ground as also on the ground of delay, the respondents have prayed that the O.A. should be dismissed.

In OA No.63 of 1995 the applicant has claimed casual that he worked as a/hot weather waterman at Meramundali Railway Station from 3.4.1980 to 31.7.1980 and to that effect, he has produced copy of a certificate given by Station Master, Meramundali Railway Station (Annexure-1). The respondents in their counter

*Comm M/d/m  
29.5.97*

12

have stated that during the period in question, one Smt.M.Bewa was engaged against the post of casual hot weather waterman created for Meramundali Railway Station. The applicant never worked there. The matter was got enquired into by one of the Inspectors of Meramundali Railway Station, but no records regarding engagement of the applicant could be located. On the above ground as also on the ground of limitation, the respondents have prayed for dismissal of the O.A.

In OA No.70 of 1995, the applicant has claimed that he worked as a casual labourer under P.W.I, Khurda Road, for 246 days in 1963 and for 261 days in 1964. He also worked for seven days from 4.7.1986 to 10.7.1986 . To the above effect, the applicant has produced the certificates given by P.W.I., Khurda Road, at Annexures 1 and 2. The respondents in their counter have stated that there is nothing on record to prove that the applicant is the same person as Dhruba, son of Nata, whose name has been mentioned in the certificates. On an enquiry by the Inspector, it was found that a person named Dhruba, son of Natabar, was employed on casual basis. There is doubt if the applicant Dhruba Charan Sahu, son of Natabar Sahu is the same person as the person who had worked earlier. They have also claimed that because of long delay, the applicant has no claim to be considered for re-engagement.

*Jammatham*  
*29.5.97*

In the last case, OA No.71 of 1995, the applicant has claimed that he worked as casual hot weather waterman in Jakhpura Railway Station from 1.4.1978 to 30.7.1978 and this is

supported by the certificate of Station Master, Jakhpura Railway Station, which is at Annexure-1. The respondents in their counter have stated that there was sanction for one casual hot weather waterman for the period from 1.4.1978 to 30.9.1978 against which one Basudev Barik was engaged and not the applicant. His case was also enquired into by deputing one Chief Personnel Inspector who found in his report at Annexure-R/3 that in none of the records of Station Master, Jakhpura Railway Station, the applicant's name has appeared at the relevant time and therefore, the Inspector reported that the applicant had not worked at Jakhpura during the period claimed by him.

3. In course of his ~~brief~~ submission, the learned lawyer for the applicants fairly conceded that the applicants have come up after long lapse of time, but he urged that as they are illiterate poor people, they cannot be expected to be aware of the Supreme Court decisions and the Scheme framed by the Railways <sup>for</sup> preparing a Live Casual Register. The learned lawyer for the applicants, in course of his submissions, confined his submission only to the prayer that a direction should be issued to the respondents to verify the genuineness of the claim of the applicants and give them engagement as and when there is work after the persons whose names are there in the Live Casual Register are exhausted. In support of his submission, the learned lawyer for the applicants has drawn my attention to the decision of the Tribunal in a batch of cases, OA Nos. 518/91, 519/91, 520/91, 521/91, 522/91, 560/92 and 561/92. These cases were disposed of in order dated 9.7.1993 by the Division Bench of the Tribunal with a direction to the respondents to consider giving some work to the petitioners as Hot Weather Watermen, or in case any other

13  
19  
V. M. M. J. J.  
29.5.92

work was available, their cases were ordered to be considered sympathetically. From this batch of nine cases, I find that the present applicants have claimed that several of the applicants in the cases decided on 9.7.1993 like K.C.Behera, B.Mukherjee, Sahadev Pradhan, Manoranjan Das and S.C.Mohapatra, who were applicants in O.A.Nos.518/91, 519/91, 521/91, 520/91 and 560/92, have been engaged by the Railway authorities even though they were junior to the present applicants in the sense that their dates of initial engagement were much later. It was submitted by the learned lawyer for the applicants that a similar direction in fairness should be issued to the respondents in respect of the present applicants. I find from the records of those earlier cases that the genuineness of the claim of past engagement of the applicants there was not checked up by the Railway authorities before filing of counters in O.A.Nos.518 and 519 of 1991. In other cases, namely, OA No.520/91, OA No.521/91, O.A.No.522/91 and O.A.No.560/92 counters were not filed by the respondents. In these cases, it is seen that in O.A.No.160/94 and O.A.Nos.32, 61,62,63 and 71 of 1995 the respondents have got the cases of these applicants enquired into and found that the certificates produced by them are fabricated. In case of applicant in O.A.No.33 of 1995, according to his own averment, he has worked only for three days many years ago and in case of applicant in O.A.No.158 of 1994, by his own averment, he is around 59 years of age by now. As such, obviously their cases cannot be considered by the respondents for re-engagement. The only remaining applicant is in O.A.No.70 of 1995. The Railways admit that one Dhruba,

14  
29.5.97

15

son of Natabar had worked in the past under them, but they have stated that the present applicant Dhruba Charan Sahoo, son of Natabar Sahoo, may not be the same person. In consideration of the rival averments made by the parties, in case of O.A.No.70/95 it is ordered that the respondents should make a thorough enquiry with regard to the fact if Dhruba, son of Natabar, whose name has been mentioned in the documents of the Railways is the same person as Dhruba Charan Sahoo, son of Natabar Sahoo, the applicant in O.A.No.70 of 1995, and in case it is found that two are the same, then the Railways are directed to consider his case for re-engagement as a casual labourer subject to his suitability and subject to work being there with the respondents only after they exhaust the names in the Live Casual Register.

4. In the result, O.A.Nos.158 and 160 of 1994, O.A.Nos.32,33,61,62,63 and 71 of 1995 are rejected, and O.A.No.70 of 1995 is disposed of in terms of direction given above. There shall be no order as to costs.

66  
*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
29.5.97