

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 306 OF 1994.
Cuttack, this the 27th day of March, 2000.

R.K. THAKUR & OTHERS.

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APPLICANTS.

VRS.

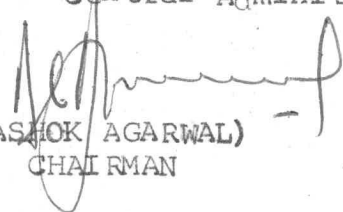
UNION OF INDIA & OTHERS.

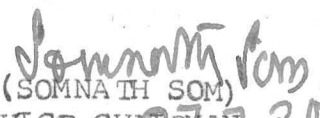
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RESPONDENTS.

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.**


(ASHOK AGARWAL)
CHAIRMAN


(SOMNATH SOM)
VICE-CHAIRMAN

27.3.2000

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 306 OF 1994.

Cuttack, this the 27th day of March, 2000.

C O R A M:

THE HONOURABLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN

A N D

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN.

1. R.K. Thakur, 41 years, Painter Gr. II,
S/o. M.N. Thakur, C/o. Signal,
Inspector/Con/SE Rly/MPM/
Visakhapatnam,
2. B. Ramunaidu, MSM Gr. III, Aged about 42 years,
S/o. Appalla, C/o. SE Rly/MPM/VSKP;
3. P. Chandra Rao, Jr. Clerk, 46 years,
S/o. Suryanarayana, C/o. SE Rly/MPM/VSKP;
4. K. Veeracharyulu, Khalasi, 50 years,
S/o. Satyanarayana, C/o. SE Rly./MPM/VSKP;
5. K. Arjun, Chowkidar, 41 years,
S/o. Pothanna, C/o. Dy. CEE/C/SEERLY./VSKP;
6. Ch. Rama Rao, Store Issuer, 53 years,
S/o. Mallanna, C/o. Dy. CSTE/C/HQRS/VSKP;
7. B. Appa Rao, DAK Runner, 37 years, S/o. Yerranna,
C/o. Dy. CSTE/C/HQRS/VSKP;
8. K. Jankiram, Xerox operator, 45 years,
S/o. Kodandan, C/o. Dy. CSTE/C/HQRS/VSKP;
9. O. Hanumantha Rao, SS Fitter, 43 years,
S/o. Satyanarayana, C/o. Dy. CSTE/Cp VSKP;
10. J. Sarala, Daftary, 40 years,
W/o. Jankiram, C/o. Dy. CSTE/C/VSKP;
11. V. V. V. Lakshmi, Jr. Clerk, 40 years,
W/o. Dakshinamurthy, C/o. Dy. CSTE/C/VSKP;
12. S. Suri, Chowkidar, 43 years, S/o. Gangayya,
C/o. EF/Gp Con./VSKP;
13. SS Kumari, Storewomen, 38 years,
W/o. Sundar Rao, C/o. Dy. CSTE/C/VSKP;
14. T. Meenakshi, Jr. Clerk, 43 years, D/o. TWJ Rao,
C/o. Dy. CSTE/C/VSKP ;
15. K. Appalanaidu, Store Issuer, 40 years, S/o. Sanyasi,
C/o. Dy. CSTE/C/VSKP;

16. Ch. Simanchalam,
Record Sorter,
C/O CPM/SE Rly/
VSKP.
17. K. Venkateswar Rao,
Tracer, C/O Krishnamurthy,
C/O DY. CSTE/C/VSKP.
18. A. V. Krishna Rao, JDM,
C/O DEN/CO-ORD/Wat.
19. Basudev, P. M. Mate,
C/O PWI/C/
Sikrapai.
20. Lovonya, Pech
C/O DY. CE/C/Rzyagada.
21. Hari, IOW Mate,
C/O PWI/C/Sirapai.
22. Hathi Ram, Valve Operator,
C/O IOW/C/RGDA.
23. Baistobo, Compressor Operator,
C/O IOW/C/Koraput.
24. Hiralal, IOW Mate,
C/O IOW/C/Bhavanipatna.
25. Chital, Running Room,
C/O TXR/KRPU.
26. Lahar Thandi, Khalasi,
C/O IOW/C/KRPU.
27. Bhuja Tandi, Khalasi,
C/O IOW/C/KRPU.
28. Pareswar, Gangman,
C/O PWI/C/KRPU.
29. Ghasi Ram, Khalasi,
C/O IOW/C/KRPU.
30. Balaram, Gangman,
C/O PWI/C/Koraput.
31. Jalandro, Gangman,
C/O PWI/C/KRPU.
32. Parasuram, Khalsi,
C/O ATR/S. E. Rly/KRPU.
33. M. G. Sattyanara, Jr. Clerk,
C/O DY. CEE/C/RE/WAT
VSKP.

34. S. Neelavani, Female,
C/O EFO/G/CON/VSKP.
35. A. Chandrayya, Khalasi,
C/O EFO/G/C/VSKP.
36. S. Rama Rao, Head Mechanic
C/O IOW/HQ/VSKP.
37. K. Narasingha, Mechanic,
C/O IOW $\frac{1}{2}$ C $\frac{1}{2}$ HQ $\frac{1}{2}$ VSKP.
38. S. Ananda Rao, Helper,
C/O IOW/C/HQ/VSKP.
39. S. Venkata, Helper,
C/O IOW/HQ VSKP.
40. B. Chinna Rao, Driver,
C/O IOW/C/HQ/SAT.
41. Doll, Trolly,
C/O PWI/C/WAT.
42. Bhuj o, Gangman,
C/O PWI/C $\frac{1}{2}$ WAT.
43. K. Somulu, Chowkidar,
C/O IOW/C/WAT.
44. Y. Pydithalli, Khalasi,
C/O PWI/C/WAT.
45. Ch. Mutyalu, Khalasi,
C/O DSK/C/WAT.
46. P. Simanchalam, Khalasi,
C/O DSK/C/~~W~~AT.
47. D. Applaswamy, Khalasi,
C/O DSK/C/WAT.
48. P. Venkanna, Trollyman,
C/O PWI/C/VSKP.
49. M. Satyam, Trollyman,
C/O ~~P~~WI/C/VSKP.
50. M. Narasayya, Chowkidar,
C/O PWI/C/VSKP.
51. M. Neelayya, Chowkidar,
C/O PWI/C/VSKP.
52. Ananto, Chowkidar,
C/O PWI/C/KRPU.
53. G. Ramarao, Gate man,
C/O PWI/C/VSKP.

54. P. Raminaidu, Chowkidar,
C/O. IOW/C/VSKP;
55. B. Pydithalli, Chowkidar,
C/O. IOW/C/VSKP;
56. P. Raja Rao, Chowkidar,
C/O. PWI/C/WAT;
57. J. Chalapathi Rao, Chowkidar,
C/O. SWC/V/WAT.
58. M. Atchi Naidu, Khalasi,
S/O. Sathyanagar Manchukswda
Garden's VSKP-7;
59. P. Srinivas Rao, ESM-III,
C/O. DY. CSTE/C/VSKP.

.... APPLICANTS.

For the applicants : M/s. G. A. R. Dora,
V. Narasingh,
Advocates.

- VERSUS -

1. Union of India through the
General Manager,
S. E. Railway,
Garden Reach,
Calcutta-43;
2. Chief Administrative Officer
(Project Survey and Construction),
S. E. Railway, At: Chandrasekharapur,
PO: Bhubaneswar, Dist. Khurda.
3. Sr. Project Manager,
Office of the Chief Project Manager,
S. E. Railway,
Visakhapatnam (AP).

.... RESPONDENTS.

FOR RESPONDENTS : M/s. B. Pal, O. N. Ghosh,
Senior Standing Counsel.

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN:

In this Original Application under section 19 of the Administrative Tribunals Act, 1985, 59 applicants who have been permitted to pursue this application jointly, have prayed for a direction to the Respondents to count the entire period of their service, after completion of six months from the date of their initial appointment as casual workers for the purpose of retirement benefits like pension, gratuity etc.

2. Case of applicants is that they were initially appointed in different Gr. C & D Posts on casual basis in SE Railway, Construction Project at Waltair on different dates between 1963 to 1980. In due course, after proper screening, all of them have been regularly absorbed on different dates in the years from 1981 to 1983. Applicants have stated that their period of service as casual labourers, was continuous and without any break and therefore, after six months of continuous service, they should have been conferred with temporary status as per the decision of the Hon'ble Supreme Court. They have further stated that after conferring of temporary status, period of service with temporary status till regularisation should count towards pensionable service. In the context of the above facts, they have come up with the prayer referred to earlier.

3. Respondents have filed their counter opposing the prayer of applicants. They have made elaborate submissions with regard to the status of casual employees. It is not

necessary to go into the general question of the status of casual workers except to note that as per the definition of Railway servant, a casual worker is not a Railway servant. A casual worker working in open line organisation, can be conferred with temporary status after completion of 120 days of service and in the construction organisation like the present applicants, they can be conferred with temporary status after 180 days of service or six months of service. Respondents have stated that the scheme for conferring of temporary status on casual workers of the Railway came after the decision of the Hon'ble Supreme Court in Inderpal Yadav Vrs. Union of India and others reported in 1985(3)SCR 837 and therefore, prior to the decision of the Hon'ble Supreme Court in the Indrapal Yadav's case, such conferment of temporary status is not possible and the applicants are also not entitled to the same. Question of conferment of temporary status on the casual labourers under construction organisation came for consideration before the Hon'ble Supreme Court in the case of Union of India Vrs. K.G. Radhakrishna Panickar reported in AIR 1998 SC 2073. In that case after analysing the entire position with regard to the status of casual labourers in the construction organisation, Their Lordships of the Hon'ble Supreme Court observed as follows:

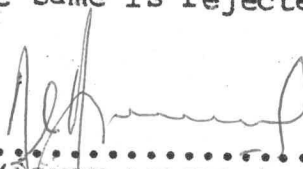
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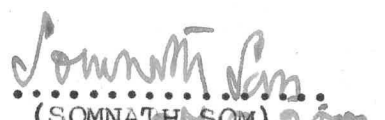
"We, are, therefore, unable to uphold the judgment of the Tribunal dated February 8, 1991 when it holds that service rendered as Project Casual labour by employees who were absorbed on regular permanent/temporary posts prior to

1.1.1981 should be counted for the purpose of retiral benefits and the said judgment as well as the judgment in which the said judgment has been followed have to be set aside. The judgments in which the Tribunal has taken a contrary view have to be affirmed".

4. In the instant case applicants have stated that they have worked as Casual Labourers for long periods from 1963 to 1980 and they want that during these periods of service as casual labourers, temporary status should be conferred on them and that period should count towards the pensionary benefits. As per the averments of the petitioners, they have been regularised on different dates from 1981 to 1988. In view of the above observation of the Hon'ble Supreme Court, casual service rendered by them prior to 1981 can not be counted either for the purpose of conferring the temporary status or for the purpose of pensionary benefits.

5. In the result, therefore, we hold that the application is without any merit and the same is rejected. No costs.


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(ASHOK AGARWAL)
CHAIRMAN


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(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM.