CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

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ORIGINAL APPLICATION NOS.154/97, 465/98, 301/99
AND 550/2000

Cuttack this the 17th day of April/2003

IN O.A.154/97

Purna Ch. Parida & Ors. ... Applicants

-Versus-

Union of India & Others ... Respondents

IN O.A.165/98

G.Bhujanga Rao & Ors. ... Applicants

-Versus-

Union of India & Others ... Respondents

IN O.A.301/99

Gangadhar Behera & Others ... Applicants

-Versus-

Union of India & Others ... Respondents

IN O.A.550/2000

B.Mohapatra & Others ... Applicants

-Versus-

Union of India & Others ... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? No

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

17/4/03

(M.R.MOHANTY)
MEMBER(JUDICIAL)

( B.N. SOM )
VICE-CHAIRMAN

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CE[illegible]RAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH:CUTTACK

ORIGINAL APP[illegible]ICATION NOS.454/97,465/98,301/99 AND 550/2000

Cuttac[illegible] this the 17th day of April/2003

CORAM :

TH[illegible]HON'BLE SHRI B.N. SOH, VICE-CHAIRMAN
AND
THE [illegible]ON'BLE SHRI M.R.MOHANTY, MEMBER(JUDICIAL)

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IN O.A.454/97

1. Purna [illegible]handra Parida, aged about 41 years, S/o.Bi[illegible]ram Parida, a resident of Village:Bachhara PO-Jat[illegible]i, District : Khurda

2. Suren[illegible]anath Subudhi, aged about 41 years, S/o.U[illegible].Subudhi, a resident of Village:Bachhara PO-Ja[illegible]i, Dist:Khurda

3. Sudars[illegible]n Sahoo, aged about 38 years, S/o.B.K.Sahoo a res[illegible]ent of Village : Bhansar, PO-Harirapur, Dist-[illegible]hurda

4. Prafu[illegible]a Kumar Mangaray, aged about 38 years, S/o. P.N.M[illegible]ngaray, a resident of Village-Behenta, PO-Garha[illegible]atiapara, District - Puri

5. Bijay[illegible] Kumar Nanda, aged about 41 years, S/o.K.C. Nanda[illegible] a resident of Village:Dhalpur, PO-Dhalpur Dist-[illegible]henkanal

6. D.B.F[illegible]jo, aged about 40 years, S/o.D.A.Naidu, a resi[illegible]nt of Village : Jatni, PO:Jatni, Dist-Khurda

7. Baba[illegible] Charan Rout, aged about 40 years, S/o.B.B. Rout, a resident of Village:Raghunathpur, PO-Barang, Dist-[illegible]hurda

8. Nimai[illegible] Charan Nayak, aged about 33 years, S/o.J.Nayak, a res[illegible]dent of Village/PO-Sarakana, District-Khurda

9. Bhagi[illegible]athi Behera, aged about 36 years, S/o.R.M. Behe[illegible]a, a resident of Village:Niranjanpur, PO-Kantia, Dist-Khurda

10. Trail[illegible]kyanath Dash, aged about 39 years, S/o. P.C. Dash[illegible] a resident of Village : Ra[illegible]endrapur, PO-Kabirpur Dist-Cuttack

11. Trin[illegible]th Samantray, aged about 36 years, S/o.B.N. Sama[illegible]tray, a resident of Village:Uhayapur, PO-Beraboi, Dist-Puri

12. Abhi[illegible]anyu Khandayatray, aged about 41 years, S/o. Y.K.[illegible]ay, a resident of Village:Kharkata, PO-Mandarbasta Dist-Khurda

13. Sareswa Sahoo, aged about 40 years, S/o.S.S.Sahoo, a resid nt of Village : Rajabazar, PO:Jatni, Dist-Khurda

14. Santosh Kumar Panigrahi, aged about 37 years, S/o.G.D. Panigrahi, a resident of Village:Harijan Sahi, P -Berhampur, Dist-Ganjam

15. Anatha Sethi, aged about 37 years, S/o.N.Sethi, a resid nt of Village:Bachhara, PO:Jatni, Dist-Khurda

16. Arakhit Behera, aged about 37 years, S/o.N.K.Behera, a resid nt of Village:Raghunathpur, PO-Barang, Dist-Khurda

17. Kapil N th Nayak, aged about 41 years, S/o.P.Nayak a resid nt of Vill-Bachhara, PO-Jatni, Dist-Khurda

All are Registered Substitutes under Divisional Superin endent, Khurda Road, South Eastern Railway/ East Co st Railway, Khurda Road Division, Jatni, Distric : Khurda

... Applicants

By the Advoc tes M/s.Biswajit Mohanty-I
S.Patra

-VERSUS-

1. Union of India represented through General Manager, South E stern Railway, Garden Reach, Calcutta, West Bengal

2. Divisio al Railway Manager(P), Khurda Road, South Eastern Railways, Jatni, Dist-Khurda

3. Divisio al Railway Manager, Khurda Road Division, South E stern Railway, Jatni, District:Khurda

4. Divisio al Transport Inspector(C) Khurda Road Division, South E stern Railways, Jatni, District:Khurda

... Respondents

By the Advoc tes M/s.B. Pal
P.C.Panda
S.K.Ojha

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IN O.A.NO.465/98

1. G.Bhuja Rao, aged about 47 years, S/o.Late Chalapati Rao, At alichhak Sahi, PO-Jatni, Dist-Khurda

2. Harihar Mohapatra, aged about 44 years, S/o.Banchhanidhi Mohapat , At/PO-Haladipada, Dist-Puri

3. Pitamba Baral, aged about 44 years, S/o.Late Rama Chandra Baral, Village/PO-Guali Gorda, Dist-Puri

4. Kelu Ch an Pradhan, aged about 45 years, S/o.Balabhadra Pradhan, At:Mandarbasta, PO-Salepur, Dist-Puri

5. Purna Chadrq Baral, aged about 44 years, S/o.Late Rama Chandra Baral, Vill/PO-Guali Gorda, Via:Belanga, Dist-Puri

6. Ajay Kumar Bharimal, aged about 44 years, S/o.Prabhakar Bharimal, At: Dokanda, PO-Kanas, Dist-Puri

7. Purna Chandra Biswal, aged about 44 years, S/o.Bhabani Biswal, At:Nuagarh, PO-Delang, Dist-Puri

8. Promod Kumar Bhola, aged about 45 years, S/o.Pabana Bhola, At/PO-Ramachandi, Dist-Puri

9. Upendra Jena, aged about 45 years, S/o.Lingaraj Jena, At: Bagal, PO:Motari, Dist-Puri

10. Sri Udayanath Parida, aged about 45 years, S/o.Late Nidhi Parida, At:Chanagorada, PO-Patanakia, Dist-Puri

11. Rajkishore Jena, aged about 44 years, S/o.Late Prahallad Jena, At:Eatal, PO-Motari, Dist-Puri

12. Pramod Kumar Pradhan, aged about 45 years, S/o.Late Kailas Chandra Pradhan, At:Gobardhanpur, PO-Pipili, Dist-Puri

13. Trinath Mangaraj, aged about 45 years, S/o.Rahas Mangaraj, At:Aswathapari, PO-Kanas, Dist-Puri

14. Gandharb Biswal, aged about 45 years, S/o.Bhabani Biswal, At:Nuagarh, PO-Delang, Dist-Puri

15. Bipin Kumar Balbantray, aged about 46 years, S/o. Jayakrishna Balbantray, At/PO-Motari, Dist-Puri

16. Niranjan Balabantaray, aged about 46 years, S/o.Arta Balabantaray, At/PO-Motari, Dist-Puri

17. Raghunath Pradhan, aged about 45 years, S/o.Sambhu Pradhan, At: Khairikuda, PO-Guali Gorda, Dist-Puri

18. Sri Narjuna Mohapatra, aged about 45 years, S/o.Bhabani Mohapatra, At:Aragad, PO-Godiput Matiapara, Dist-Puri

19. Pabitra Mohan Pradhan, aged about 45 years, S/o. Kailash Chandra Pradhan, At:Gobardhanpur, PO-Pipili, Dist-Puri

20. Ashok Kumar Paikray, aged about 45 years, S/o. Dibyasingh Paikray, At:Manitiri, PO-Godoput Matiapara, Dist-Puri

21. Krupasindhu Mohapatra, aged about 45 years, S/o.Late Prahallad Mohapatra, At/PO: Kantia, Dist-Puri

22. Sopenswar Mohapatra, aged about 45 years, S/o.Late Prahallad Mohapatra, At/PO-Kantia, Dist-Puri

23. Debraj Rana, aged about 45 years, S/o.Budhinath Rana, At:Bota, PO: Motari, Dist-Puri

24. Gandu Dehury, aged about 45 years, S/o.Mayadhar Dehury, At: Natua, PO-Mahapada, Dist-Dhenkanal

25. Bibhuti Bhusan Jena, aged about 45 years, S/o.Bamdev Jena, At:Podapada, PO; Arugul, Dist-Khurda

26. Pradeep Kumar Jena, aged about 44 years, S/o.Nanda Kishore Jena, At:Haripur, PO:Godiput Matiapara, Dist-Puri

27. Subash Chandra Panda, aged about 44 years, S/o.Surendranath Panda, At:Haripur, PO:Godoput Matiapara, Dist-Puri

28. Rabindranath Mohapatra, aged about 45 years, S/o. Bansidhar Mohapatra, At:Parapada, PO:Godiput Matiapara, Dist-Puri

29. Bhaskar Rana, aged about 45 years, S/o.Purna Chandra Rana, At:Khudapur, PO-Bhimpur Padanpur, Dist-Puri

... Applicants

By the Advocates M/s.Biswajit Mohanty - I S.Patra

-Versus-

1. Union of India represented through General Manager South Eastern Railway, Garden Reach, Calcutta, West Bengal

2. Divisional Railway Manager (P), Khurda Road, South Eastern Railways, Jatni, Dist-Khurda

3. Divisional Railway Manager, Khurda Road Division, South Eastern Railway, Jatni, Dist-Khurda

4. Divisional Transport Inspector(C), Khurda Road Division, South Eastern Railway, Jatni, Dist-Khurda

... Respondents

By the Advocates Mr.C.R.Mishra
Mr.B.Pal

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IN O.A.NO.301/99

1. Gangadhar Behera, aged about 42 years, S/o.Khushma Behera, a resident of Vill/PO-Motari, Dist-Puri

2. Chandrakanta Parida, aged about 40 years, S/o.Bhikari Parida, a resident of Vill-Jagadalpur, PO-Delang, Dist-Puri

3. Akshya Harichandan, aged about 41 years, S/o.Dhaneswar Harichandan, a resident of Vill/PO-Motari, Dist-Puri

4. Bisuram Mangaraj, aged about 39 years, Son of Late Agadhu Mangaraj, a resident of Vill/PO-Motari, Dist-Puri

5. Nalu Martha, aged about 42 years, Son of Kalu Martha a resident of Vill/PO-Ghoradia, Dist-Puri

6. Sarat Kumar Dalai, aged about 42 years, Son of Bhimsen Dalai, a resident of Vill/PO-Motari, Dist-Puri

7. Hemanta Kumar Harichandan, aged about 39 years, S/o. Debaraj Harichandan, a resident of Vill-Gada Kalupada, PO-Motari, Dist-Puri

8. Dukhi Shyama Palai, aged about 40 years, S/o. Abhimanyu Palai, a resident of Vill/Jagadalpur, PO-Delang, Dist-Puri

9. Sanjay Baral, aged about 39 years, S/o.Bhimsen Baral a resident of Vill/PO-Motari, Dist-Puri

10. Bharat Kumar Balabantaray, aged about 39 years, S/o. late Pitabas Balabantaray, a resident of Vill/ Jagadalpur, PO-Delang, Dist-Puri

11. Sarat Kumar Patra, aged about 42 years, S/o.Brajabandhu Patra, a resident of Vill/PO-Birapurusottampur, Dist-Puri

12. Swadhin Kumar Nayak, aged about 39 years, S/o.Babaji Nayak, a resident of Vill/PO-Motari, Dist-Puri

13. Bijay Kumar Samantaray, aged about 41 years, S/o. late Paban Samantaray, a resident of Vill/Jagadalpur, PO-Delanga, Dist-Puri

14. Subash Chandra Balabantaray, aged about 39 years, S/o. Baikuntha Balabantaray, a resident of Vill/Jagddalpur PO-Delanga, Dist-Puri

15. Gopinath Harichandan, aged about 40 years, S/o. late Gobinda Harichandan, a resident of Vill/PO-Motari, Dist-Puri

16. Ratnakar Mohapatra, aged about 41 years, S/o. late Kaluchharan Mohapatra, a resident of Vill-Sudhagar, PO-Tipuri, Dist-Puri

17. Gunanidhi Mohapatra, aged about 40 years, S/o. late Kakata Mohapatra, a resident of Vill-Sudhagar, PO-Tipuri, Dist-Puri

18. Pramod Kumar Harichandan, aged about 41 years, S/o. Brundaban Harichandan, a resident of Vill/PO-Motari, Dist-Puri

19. Krushna Chandra Balabantaray, aged about 41 yrs., S/o. Baikuntha Balabantaray, a resident of Vill-Jagadalpur, PO-Delanga, Dist-Puri

20. Kudarat Khan, aged about 42 yrs., S/o. late Hamid Khan, a resident of Vill/PO-Motari, Dist-Puri

21. Prakash Kumar Chhotaray, aged about 41 yrs., S/o.Gangadhar Chhotaray, a resident of Vill/PO-Motari, Dist-Puri

22. Madhusudan Samantaray, aged about 40 yrs., S/o.late Kuber Samantaray, a resident of Vill/PO-Balabhadrapur, Dist-Puri

23. Narendra Champati, aged about 42 yrs., S/o. late Upendra Champati, a resident of Vill/PO-Motari, Dist-Puri

24. Duttiman Chhotaray, aged about 41 yrs., S/o. late Banchhanidhi Chhotaray, a resident of Vill/PO-Balabhadrapur Dist-Puri

25. Sridhar Patra, aged about 39 yrs., S/o.Somanath Patra, a resident of Vill-Birapurusottampur, PO-Pipili, Dist-Puri

26. Suryamani Samal, aged about 42 yrs., Son of late Gopinath Samal, At-Baharpampu, PO-Ghanatala, Dist-Cuttack

27. Surat[illegible]a Chandra Paikaray, aged about 42 yrs., S/o. late [illegible]atabar Paikaray, a resident of Vill-Jagadalpur, PO-D[illegible]anga, Dist-Puri

28. Bhas[illegible]r Palai, aged about 39 yrs., S/o. late Harihar Pala[illegible] a resident of Village-Jagadalpur, PO-Delanga, Dist-[illegible]uri

29. Gopi[illegible]th Sahoo, aged about 42 yrs., S/o. late Ghana Sahoo, a resident of Vill-Uaspadar, PO-Kalupada, Dist-Khurda

30. Bhara[illegible] Kumar Bhatta, aged about 41 yrs., S/o.Kamgati Bhat[illegible], a resident of Vill-Sailo Nuagaon, PO-Gobindapur, Dist-Cuttack

31. Siba[illegible]rasad Pradhan, aged about 39 yrs., S/o.Hadibandhu Pradh[illegible]n, a resident of Vill-Mundal, PO-Kalapada, Dist-Khurda

32. Tutu[illegible] Mohanty, aged about 40 yrs., S/o.Bhagabat Mohanty, a re[illegible]dent of Vill-Rampa, PO-Barimount, Dist-Jajpur

33. Brund[illegible]aban Pradhan, aged about 42 yrs., S/o.Daitari Pradh[illegible]an, a resident of Vill-Nipur, PO-Singh Barampur, Dist-Puri

34. Prav[illegible]kar Mangaraj, aged about 39 yrs, S/o.Bhaskar Mang[illegible]raj, a resident of vill-Kariapada, PO-Ghodadia, Dist-Puri

35. Ulas[illegible] Baliarsingh @ Ullash Chandra, aged about 41 yrs., S/o. Dibakar Baliarsingh, a resident of Vill-Kamuna, PO-A[illegible]gal, Dist-Puri

36. Gund[illegible]cha Pradhan, aged about 39 yrs., S/o.Prahallad Pradh[illegible]an, a resident of Vill-Jamuna, PO-Aragal, Dist-Puri

37. Susa[illegible]t Kumar Martha, aged about 40 yrs., S/o.Prafulla Kuma[illegible] Martha, a resident of Vill-Jamuna, PO-Argal, Dist-Puri

38. Dukh[illegible]shyam Baldarsingh, aged about 39 yrs., S/o. Sana[illegible]an Baliarsingh, a resident of Vill-Jamuna, PO-Argul, Dist-Puri

39. Pram[illegible]d Kumar Mangaraj, aged about 41 yrs., S/o.Kailash Mang[illegible]raj, a resident of Vill/PO-Ghoradia, Dist-Puri

40. Sara[illegible] Martha, aged about 40 yrs., S/o.Benudhar Martha a re[illegible]dent of Vill-Jamuna, PO-Aragul, Dist-Puri

41. Rabi[illegible]dra Kumar Jena, aged about 39 yrs., S/o.late Nata[illegible]ar Jena, a resident of Balol, PO-Ntari, Dist-Puri

All [illegible]ce Registered Substitutes under Divisional Supe[illegible]intendent and Divisional Personnel Officer, Khur[illegible]a Road, South Eastern Railway/East Coast Railway, Khur[illegible]a Road Division, Jatni, Dist-Khurda

... Applicants

By the Ad[illegible]ocates M/s.Biswajit Mohanty
S.Patra

-Versus-

1. Union of India represented through General Manager, South Eastern Railway, Garden Reach, Calcutta, West Bengal
2. Divisional Railway Manager (P), Khurda Road, South Eastern Railways, Jatni, Dist-Khurda
3. Divisional Railway Manager, Khurda Road Division, South Eastern Railway, Jatni, Dist-Khurda
4. Divisional Transport Inspector(C), Khurda Road Division, South Eastern Railways, Jatni, Khurda

... Respondents

By the Advocates Mr.D.N. Mishra
Mr.B. Pal

O.A.NO.550/2000

1. Baijuntha Mohapatra, aged about 42 yrs., S/o. Abhimanyu Mohapatra, At-Amalanga, PO-Delanga, Dist-Puri
2. Prahallad Behera, aged about 43 yrs., S/o.Balaram Behera, At/Gopinathpur, PO-Jatni, Dist-Khurda

... Applicants

By the Advocates Mr.B.Dash

-Versus-

1. Union of India represented through General Manager, S.E.Railway, Garden Reach, Calcutta-43
2. Divisional Railway Manager, S.E.Railway, Khurda Road Division, Jatni, Dist-Khurda
3. Sr.Divisional Personnel Officer, S.E.Railway, Khurda Road Division, Jatni, Dist-Khurda
4. Station Superintendent of S.E.Railway, Khurda Road, Jatni, Dist-Khurda
5. Divisional Operating Superintendent, Khurda Road Division, S.E.Rly., Jatni, Dist-Khurda

... Respondents

By the Advocates Mr.A.K.Misra
Mr.A.Pal
Mr.B.Pal
Mr.C.R.Mishra

.....

ORDER

MR.B.N.SOM, VICE-CHAIRMAN : In all the four Original Applications the point to be decided by us being one and the same, this common order will govern the field. For the sake of convenience, we may as well deal with O.A.454/97.

2. Purna Chandra Parida and 16 others have filed O.A.454/97 seeking direction to Respondents/Railways for engagement as substitutes against day to day casualities/ vacancies, inter alia alleging the inaction of the Respondents in engaging them as substitutes although their juniors/ freshers have been engaged as such. The applicants claiming to be the registered substitutes of the year 1971-72 under Divisional Superintendent, S.E.Railway, Khurda Road have also assailed this action of the Respondents are illegal, arbitrary, mala fide, discriminatory and violative of Articles 14 and 16 of the Constitution.

3. The applicants, as stated earlier, have claimed that they were registered by the Respondents as substitutes on various dates between November, 1971 to March, 1972. They have further claimed that their names were recorded in the register maintained in the office of Respondent No.3. They have submitted under Annexure-A/1 (said to be a sample copy of the orders) showing their registration as substitutes. They have also indicated the stations of engagement as substitute by the Respondents. The applicants have further alleged that by ignoring the entire procedure, the Respondents have absorbed some

outsiders as substitutes and they have also cited names of certain substitutes who are claimed to be junior to them against permanent posts. Inspite of the direction of the Divisional Personnel Officer, S.E.Railway, Garden Reach vide his letter dated 10.10.79 that engagement of substitutes should be made strictly on the basis of seniority, the Respondents followed the policy of pick and choose and thus denied opportunity to the applicants for being regularly engaged. They have further stated that it was in the last part of 1996 that the applicants came to know that the authorities had started engaging freshers as substitutes. The applicants further stated that although there existed requirement of substitutes in the posts of token porter, time points man, lever man and gate man, the Respondents did not call them to duty. Thus being aggrieved, they have approached this Tribunal seeking direction to Respondents as referred to earlier.

4. Respondents, in their counter have refuted all the claims of the applicants to which the applicants have filed rejoinder and Respondents have also submitted reply to rejoinder. Applicants have also furnished additional verification enclosing thereto certain documents regarding engagement of some of them by the Respondents during 1977-81.

5. We have heard the learned counsels for both the sides and perused the materials available on record. Respondents have raised the question of limitation by stating that the cause of action having been arisen in

the year 1971-72 and this Original Application having been filed after 25 years, i.e. in the year 1997, the same is liable to be dismissed on the ground of limitation alone. They have laid stress on the point that the applicants at the time of their registration as substitutes, as claimed by them, were in the age group of 10 - 16 years. The applicants being minor on the date of purported application were not sue juris and as such not entitled for registration as substitutes. They have formally denied that the applicants were ever registered as substitutes in 1971-72. The Respondents have also denied the existence of any document like the one submitted by the applicants under Annexure A/1. They have further pointed out that the case of the applicants is contradictory, because, while they are claiming to have been registered substitutes, in the prayer they have asked for engagement against day to day casualities/vacancies. They have also averred that even if the applicants were ever engaged as substitutes, the very fact that they do not claim any engagement between the period 1980-81 and 1997 make them ineligible for being considered for engagement as substitutes in terms of Establishment Sl. No.244/84 (under the Heading Screening) which stipulates as follows :

> "If a casual labour who was earlier discharged from service on completion of work or for want of further productive work has not worked on the Railways again in the preceeding two calendar years his name should be struck off from the casual labour register".

The Respondents have also denied the allegation that any person viz. Chandra Sekhar Barik, T.N.Pradhan and

Nakul Bari were ever working as substitutes under Chief D.T.I., Khurda. Repudiating the chart showing stations of engagement of the applicants, the Respondents have stated that the same cannot be dependent upon, because, it does not disclose the length of engagement and/or days' of engagement of the applicants, thus making it difficult for verification. The Respondents have, by filing a reply, denied that the certificates of enrolment of the applicants during the same period between 1977-1981 are not authentic being not accompanied with engagement letters enrolling the applicants as substitutes issued by the Divisional Personnel Officer and that on verification of records no such engagement letters were found to have been issued by the Sr.Divisional Personnel Officer. The Respondents have further stated that the substitute register maintained by the Khurda Road Division shows that the applicants were never engaged as substitutes nor were they paid any wages nor their names were takenforward in the substitute register, that after 10.10.1979, the engagement of substitutes was done at the Division level with the approval of General Manager etc. For the engagement done prior to that date by the Division only wages were paid through station pay order, signed by the divisional authority and therefore, the Respondents submitted that had the applicants been engaged as substitutes their names should have been reflected in the substitute register.

6. The issue which needs to be resolved here is to determine whether the applicants are entitled to relief that they have claimed and as to whether they

were registered as substitutes by the Respondents during the year 1977. The story of the applicants is that they were registered during the year 1971-72, but were given engagement during the period 1977-81. Although to prove their point the applicants have relied on the strength of the letter of the Respondents at Annexure-A/1 as well as certificates of engagement under Annexure-A/4, the Respondents have repudiated the authenticity of both these documents. With regard to Annexure-A/1, they have denied the existence of any office file bearing Index No. "P-3/1-A." Further they have stated that even for the argument's sake this letter did exist, it could not have helped the applicants for registering themselves as substitutes, because the letter contained an instruction that the Selection Board could appoint a candidate provided he was in the age limit between 18 & 25 years. As the applicants, during the year 1971-72 are found to be within age group of 10-16 years, they could not have been registered as substitutes. As regards Annexure-A/4 the Respondents have disputed the authenticity of this document for the reason they have explained in the counter.

7. A few questions arose out of this application which have not been answered satisfactorily by the applicants, i.e., whether the Respomdents could have registered some workers 7 to 8 years earlier for engagement and whether administratively it was feasible to maintain such list for years together and if the

applicants were actually engaged as substitutes sometimes in 1977, 1978, 1980 and 1981, according to their own admission, why they were not engaged till 1997, when they approached this Tribunal in the present O.A. They had for inexplicable reasons remained dormant all these years. As a result having not been engaged for so many years they could not have retained their status as substitutes in terms of Estt.Sl. No.244/84 dated 12.12.1984. Thus this point remains uncontrovertible. And having remained silent for somany years they are liable to lose their right to agitate the matter. It has been brought to our notice by the Respondents that similar issue came up before this Tribunal in O.A. 21/98. In that case, applicants (15 in number) claimed to have worked as substitutes on different dates in 1978 at Gurudijhatia Railway Station and produced certificates of engagement from the Station Master. Thereafter neither they were engaged nor did they agitate. The Tribunal found that the period of engagement during 1978-79 was 3 to 20 days, but they approached the Tribunal 21 years after the last engagement under the Railways. The applicants could not clarify as to why they had remained silent for the last 21 years. Neither they had indicated if they had ever preferred any representation to the departmental authorities during the intervening period praying that they should be reengaged. Having regard to these facts of the case, the Tribunal held that the applicants were not entitled to get engagement under the Respondents.

8. In the instant case also the period of engagement

(notwithstanding that the certificates produced by the applicants the authenticity of which is in doubt) of the applicants were very short and that for over decade and a half the remained out of sight in the matter. It is because of the efflux of time the relevant documents/ registers became unavailable with the Respondents. The latter have, however, brought before us the register of substitutes that they are maintaining since 1997 in a bound form and for the earlier period, the documents are maintained in respective files. But the registers for the years from 1970 to 1980 were not available for good reasons. This inordinate delay in ventilating the grievance spares at the applicants and the same is incurable. Onus lies on the applicants to prove with reference to official documents in their possession the fact of their registration, to produce certificates of enrolment and to offer explanations for remaining silent for over 16 to 19 years. But they had failed to comply with these requirements of the case.

9. In view of the preceeding discussions, we are of the view that the applicants in O.A.454/97 as well as in other three OAs have not been able to make out a case for any of the reliefs prayed for. Accordingly, the the four Original Applications fail. No costs.

(M Sd/- M.R.MOHANTY
ME MEMBER-(JUDL

Sd/- D.N.SOM
VICE-CHAIRMAN

By