

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 321 OF 1999
Cuttack, this the 8th day of February, 2001

Vrs.

Union of India and 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.**

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

8.2.2001

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 321 OF 1999
Cuttack, this the 8th day of February, 2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

1. Purna Chandra Bhola, son of Bhimsen Bhola, a permanent resident of Areipada, P.O-Kerandipur, Dist.Puri.
2. Manoj Kumar Dash, son of Gadadhar Dash, resident of Plot No.19, Gajapati Nagar, P.O/Dist.Puri.
3. Lingaraj Swain, son of Baban Swain, At-Chokrabarti Patna, P.O-Batamangala Gopinathpur, Dist.Puri.
4. Baikuntha Nath Chhotray, son of late Balenkeswar Chhotray, At-Tarati, P.O-Saran, Dist.Puri.
5. Pravakar Biswal, s/o Hadu Biswal, At-Tarini, P.O-Kalipadaghat, Dist.Khurda.
6. Pradipta Kumar Choudhury, son of Bhagirathi Choudhury, Plot No.79, Gajapati Nagar, P.O/Dist.Puri.
7. Manoj Kumar Champati, son of Madan Mohan Champati, At-Gadakalapada, P.O-Motari, Dist.Puri.
8. Deepak Ranjan Mangaraj, son of Purushottam Mangaraj, Plot No. 19, Gajapati nagar, P.O/Dist.Puri.
9. Bhimsen Biswal, son of Rankanath Biswal, At-Pachhapatia, P.O-Kalupada ghat, Dist.Khurda.
10. Pramod Kumar Pradhan, son of late Shyam Pradhan, At-Udayagiri, P.O-Sundarpur, Dist.Khurda.
11. Sukanta Kumar Paltasingh, son of Godabari Paltasingh, At-Badapani, P.O-Badapani, District-Khurda.
12. Purna Chandra Pradhan, son of Bansidhar Pradhan, At-Tarini, P.O-Kalupadaghat, Dist.Khurda.
13. Basudev Routray, son of Nakul Charan Routray, At-Dekapada, P.O-Delang, Dist.Puri.
14. Hemant Kumar Paltasingh, s/o Gobinda Paltasingh, At-/Badapani, P.O-badapani, Dist.Khurda.
15. Manasranjan Mangaraj, son of Purushottam Mangaraj, Plot No.19, Gajapati Nagar, P.O/Dist.Puri
All are Registered substitutes under Divisional Traffic Inspector (C), Khurda Road Division, South Eastern Railway, Jatni, Khurda, Dist.Puri

Applicants

.....
Advocate for applicants- Mr.Banamali Sahoo.

Vrs.

1. Union of India, represented through General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Divisional Railway Manager, Khurda Road Division, South Eastern Railway, Jatni, Khurda.
3. Divisional Personnel Officer, Khurda Road Division, South Eastern Railway, Jatni, Khurda.
4. Divisional Traffic Inspector (C), Khurda Road division, South Eastern Railway, Jatni, Khurda.
5. Divisional Operating Superintendent, Khurda Road Division, South Eastern Railway, Jatni, Khurda

.....

Respondents

Advocate for respondents - Mr.B.K.Bal,
Railway Advocate

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this Application, fifteen petitioners have prayed for a direction to the respondents to discontinue the practice of engaging juniors and rank outsiders as substitutes. They have also prayed for a direction to the respondents to engage the applicants as substitutes in clear vacancies which arise from time to time when permanent and temporary staff remain either on EL, Sick Leave, etc.

2. In this 1999 matter in spite of a large number of adjournments and several last chances counter has not been filed. Therefore, the matter was ordered to be listed on 31.1.2001 for peremptory hearing even in the absence of counter. When the matter was called for hearing Shri B.K.Bal, the learned Railway Advocate appearing for the respondents was absent. There was also no request on his behalf seeking adjournment. In view of this, we have heard Shri B.Sahoo, the learned counsel for the petitioners and have perused the record.

3. The petitioners' case is that they have worked

as unapproved substitutes for different periods in Gurudijhatia Railway Station on different dates in 1978. In support of this averment, the applicants have enclosed at Annexure-1 series fifteen certificates issued by Station Master, Gurudijhatia Railway Station, on different dates between the period from 12.5.1996 to 14.12.1998. The applicants have stated that they had earlier worked in the Railways under the respondents, but their cases of re-engagement have been ignored and the departmental authorities have absorbed Chandrasekhar Barik, T.N.Pradhan and Nakula Barik who were never registered as substitutes and whose names did not appear in the Live Casual Register at any point of time. It is further stated that T.S.B.Ray, Sadasiv Nayak, T.Jaihind, Narayan Sahu and Gajendra Tad, who were junior to the applicants in the Live Casual Register, have been given permanent Group-D posts ignoring the cases of the applicants. The applicants have further stated that according to rules a Live Casual Register of substitutes has to be maintained and in case of day-to-day casualty because of regular incumbents remaining on leave, etc., persons are to be given engagement from the Live Casual Register. They have enclosed a circular dated 10.10.1979 which lays down that no rank outsider will be utilised as substitute/casual labourer except those who have been screened and empanelled in 1977 and if such persons are not available, then second preference may be given to such of the substitutes who had not been screened but have been engaged subsequently strictly in order of seniority. In the context of the above, the applicants have approached for the reliefs referred to earlier.

4. As earlier noted, no counter has been filed in this case by the Railways. We did not have also the benefit of hearing the learned Railway Advocate for the respondents. Going through the record, we notice that the petitioners have

themselves stated that they worked as unapproved substitutes and in support of the above contention, they have enclosed the certificates issued by Station Master, Gurudijhatia Railway Station, referred to by us earlier. From these certificates enclosed by the applicants themselves it appears that these petitioners, according to these certificates, had worked in Gurudijhatia Railway Station for period ranging from 3 to 20 days in 1978 and 1979. They have come up in this O.A. in July 1999, i.e., twentyone years after their so called last engagement under the Railways. P.C.Bhola, applicant no.1 has filed a certificate in Annexure-1 from which it is seen that it has been certified by the Station Master that he had worked for seven days in Januarry 1978. In the verification of the Application, however, applicant no.1 has mentioned his age as 26 years. If he was 26 years old on 8.7.1999 on the date of verification of the O.A., in January 1978 his age would be five years. Prima facie, therefore, this certificate cannot be relied upon. The applicants have also not mentioned as to why they have remained silent for the last twenty-one years. They have also not indicated if they had ever filed representation to the departmental authorities during the intervening period praying that they should be re-engaged. Even granting for argument's sake the genuineness of these certificates at Annexure-1 series, there is no rule or instruction that once a person was engaged under the Railways for a few days, in one case here the period of engagement is as low as three days, he would acquire a right to be considered for re-engagement for all future times even after passage of twenty years. As regards the allegation of the petitioners that some other persons who

J. S. M

were never engaged as substitutes or were junior to them have been regularised. The applicants have mentioned these persons by name, but have not made them parties in this O.A.

5. In view of all the above, we hold that the applicants are not entitled to get engagement under the respondents. The Original Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
6/2/2001
VICE-CHAIRMAN

February 8, 2001/AN/PS