

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NOS. 489 & 672 OF 1999

Cuttack, this the 8th day of August, 2001

Laxmi Prasad Dalai and others (OA 489/99)
Jatadhari Samantray (OA 672/99).....Applicants

Vrs.

Union of India and another ... 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 SOW)
VICE-CHAIRMAN

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CORAM:

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

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In OA No. 489/99

1. Laxmi Prasad Dala, 53, s/o late Narasingha Dalai
2. Digambar Sahu, 50, s/o late Kubera alias Nakula
3. Tara Sankar Ghosh, 48, s/o Sunil Kumar Ghosh
4. Kelu Charan Routray, 53, s/o Surendra Routray
5. Sudhakar Pradhan 55, s/o Udaynath Pradhan
6. Nanda Kishore Manayraj, 52, s/o late Ghanashyam Manayraj
7. Dhruba Charan Denga, 53, s/o late Bhagabat Denga
8. Gati Krishna Paikray, 50, s/o S. Paikray
9. Abhinna Barik, 55, s/o late Syama Barik
10. Brundaban Sahu, 40, s/o late Nabagan Sahu
11. Bhikari Barik, 54, s/o late Bansidhar Barik
12. Jayakrushna Mohanty, 52, s/o late Banchhanidhi Mohanty
13. Kabiraj Mohanty, 52, s/o late Dhwaja Mohanty
14. Baishnaba Dalai, 47, s/o late Panchu Dalai
15. Adhikari Naik, 50, s/o Mahanta Naik
16. Dasarathi Sasmal, 50, s/o late Bhramar Sasmal
17. Bairagi Sethi, 51, s/o Krushna

All Khalasis, office of the Divisional Railway Manager, C/o South Eastern Railway, PO/PS-Jatni, Dist. Khurda,
Address for correspondence:- C/o M.M. Basu, Advocate,
Bhubaneswar-751 002...
Applicants

In OA 672/99

Jatadhari Samantray, 53, s/o late Bairagi Samantray,
Vill-Baniasahi, P.S-Banpur, Dist. Khurda.

Advocates for applicants - M/s M.M. Basu
S.P. Patnaik

Vrs.

1. Union of India, represented by the General Manager, South Eastern Railway, Garden Reach, Calcutta-700013.
2. Divisional Railway Manager, South Eastern Railway, PO/PS-Jatni, District-Khurda.

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Respondents

Advocates for respondents - Mr. R. Ch. Rath (in OA 489/99)
Mr. C. R. Misra (in OA 672/99)

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O R D E R

SOMNATH SOM, VICE-CHAIRMAN

These two cases have been heard

separately. But the applicants in these two cases are similarly situated and they have come up with similar prayer. Respondents have filed similar counters and therefore, one order will cover both these cases. The facts of both the cases are, however, set out separately.

2. In OA No. 489 of 199, 17 applicants have stated that they were appointed as Casual Workers under Divisional Railway Manager, S.E.Railway, Khurda Road Division (respondent no.2) on different dates ranging between October 1962 and April 1970 as per details at Annexure-1. In the Railway strike in 1972 applicant nos. 1 and ~~10~~ 14 along with some others were criminally prosecuted against and discharged from casual employment. In 1977 they were acquitted in the criminal case and in 1981 they were taken back in employment as casual workers. Later on their services were regularised. The applicants have stated that they are not aware of their service particulars and their position in the gradation list after regularisation and that is why they have come up in this application with the prayer for a direction to the respondents to furnish to the applicants the details of their service particulars including copies of Service Book and Gradation List.

3. Respondents in their counter have stated that the applicants had never approached the departmental authorities for getting copies of their Service Book and Gradation List and have approached the Tribunal straightaway and therefore, the application is not maintainable. They have also stated that Annexure-1

indicating their date of initial appointment as casual labourer has been made out by the applicants themselves and cannot be relied upon. It is furtherstated that the applicants have not mentioned the unit in which they were working and the unit in which they have been regularised and therefore, it is not possible on the part of respondent to provide the details of their service particulars, Service Book and Gradation List. On the above grounds, the respondents have opposed the prayer of the applicants.

4. The applicants in their rejoinder have stated that Divisional Railway Manager is Head of Department for S.E.Railway Khurda Road Division and he should be in a position to provide the applicants with the details prayed for by them. On the above grounds the applicants have reiterated their prayer in their rejoinder.

5. In OA No.672 of 1999 the lone applicant has prayed for a direction to respondent no.2, the Divisional Railway Manager, S.E.Railway, Khurda Road Division to provide him the details of his service particulars including a copy of the Service Book and the Casual Register as maintained since 27.10.1965. The case of the applicant is that he was appointed as a casual worker under respondent no.2 on 27.10.1966 and his name was ordered to be included in the seniority list in 1989. He was regularised in 1988 without being informed of his service particulars. The applicant has stated that because of the nationwide strike in the Railways criminal case was initiated against him in which he was acquitted in order dated 28.9.1977 but he was not regularised. Ultimately, in

1981 he was reinstated. The applicant has stated that under the rules the Railway authorities are under obligation to maintain Casual Register Divisionwise regarding engagement of casual workers and to absorb them in regular employment in due course. But the applicant has no information if such a Casual Register has been maintained. Ultimately in order dated 19.8.1989 his name was included in the seniority list after screening and in order dated 3.3.1998 (Annexure-2) he was regularised against PCR post with effect from 31.10.1990. The applicant has stated that he has been working from 1966, was retrenched in 1972 and was taken back in 1981. He is not aware about his position in the gradation list and about his service particulars and that is why he has come up in this petition with the prayer referred to earlier.

6. Respondents in their counter have stated that the applicant has not disclosed his designation, place of working and the name of the office in which he was initially engaged and after regularisation nor has he enclosed the initial appointment order dated 27.10.1966. Because of this, it is not possible for the Divisional Railway Manager (respondent no.2) to find out the details of service particulars of the applicant. It is furtherstated that from Annexures 1 and 2 it is clear that the applicant was regularised against PCR post in Construction Organisation which is a separate unit. The applicant has not made any officer of the Construction Organisation as a respondent in this OA and on the above grounds they have opposed the prayer of the applicant.

W. J. S. J. M.

7. We have heard Shri M.M.Basu, the learned counsel for the petitioners in both these cases and Shri R.C.Rath, the learned Additional Standing Counsel for the respondents in OA No.489 of 1999 and Shri C.R.Mishra, the learned Additional Standing Counsel for the respondents in OA No.672 of 1999. In course of hearing it was submitted by the learned counsel for the petitioners that his prayer is confined to getting a copy of the gradation list and not the Service Book or service particulars.

8. It has been submitted by the learned counsel for the petitioner that Divisional Railway Manager, S.E.Railway (respondent no.2) is head of Khurda Road Division and all the units work under him and therefore, it is not necessary for the applicants to make the officers in the particular organisation where the applicants are working, as parties in this O.A. We have considered the above submission carefully. Even though the Divisional Railway Manager is the head of the Railway Division, under him there are different units. The Construction Organisation is really not under the Divisional Railway Manager. Moreover, even in those Units which are under the Divisional Railway Manager, there are different seniority units. In other words, in several organisations separate seniority lists are maintained. The applicants in OA No.489 of 1999 have also not mentioned in which organisation they have been regularised and where they are working now and in what capacity. The applicant in OA No. 672 of 1999 has filed document showing that he has been regularised in Construction Organisation against a PCR post from 31.10.1990 as PCR Khalasi under Divisional Survey & Signal

Telecom Engineer(Construction), Bhubaneswar. As in Construction Organisation separate seniority list is maintained, the Divisional Railway Manager (respondent no.2) cannot be directed by us to provide the gradation list to the applicant in OA No.672/99. So far as the applicants in OA No.489 of 1999 are concerned, they have not indicated where they are currently working. In view of the fact that essential informations within the knowledge of the applicants have not been revealed by them in these two O.As., we are not inclined to issue a direction to the Divisional Railway Manager (respondent no.2) to undertake a roving enquiry to find out where the applicants have been regularised and where they are now working and to provide them the gradation list.

9. The learned Additional Standing Counsel, Shri R.Ch.Rath has indicated that the Railway authorities would be willing to provide the applicants with their service particulars provided they apply individually to the head of office under whom they are currently working. In view of this, while rejecting the prayer made by the applicants in these two O.As., we direct that in case the petitioners individually apply to their head of office for giving them their service particulars and gradation list after regularisation, then rejection of these O.As. will not be a bar on the concerned authorities to provide the individual applicants with the service particulars/gradation list to be asked for by them if the same are available with them.

10. With the above observation, the O.As. are disposed of. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

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(SOMNATH SOM)
VICE-CHAIRMAN