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Order dated 11.12.2001

Heard Shri N.Panda, learned counsel for the petitioners and Mrs.R.Sikdar, learned A.S.C. for the respondents and perused the records.

In this O.A. 88 applicants have prayed for a direction to respondents to implement the further order dated 26.4.1989 at Annexure-1 and to direct the respondents to pay arrears salary to the applicant w.e.f. 1.4.1973 in the revised scale of pay, as has been revised from 1974. Respondents have filed their counter opposing the prayer of the applicant. No rejoinder has been filed.

For the purpose of considering the petition it is not necessary to go into too many many facts of the case. The petitioners claim that they were initially working in the Construction Organisation as casual workers and subsequently they were regularised in 1988. It is also submitted by the learned counsel that the petitioners are now working in the Open Line. Respondents in their counter have indicated that the applicants have not given any detail as to where they were working under Construction Organisation and by which orders they have been regularised in the Construction Organisation. Respondents have specifically denied the averment of the applicants that they have been regularised in the Construction Organisation. Respondents have stated that the applicants are lien holders in the Open Line and therefore, they cannot get the benefit of the circular at Annexure-1, which is meant for Construction Organisation.

J.S.W

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For the purpose of considering the above rival submissions a few facts of the P.C.R. staff will have to be noted. Originally casual workers were being engaged in the both Open Line and Construction Organisation and casual workers working in the Construction Organisation were entitled to be regularised in the Open Line. But as the Construction Organisation under the Railways continued on more or less permanent basis, Permanent Construction Reserve (P.C.R.) posts were created w.e.f. 1.4.1973 for absorbing casual workers who had been recruited in the Construction Organisation and have been working there. The number of P.C.R. posts were increased from time to time, ~~in 1984 and~~ 1988 depending upon the preceding three years' average number of casual workers. Even though P.C.R. posts were created originally in 1973, regularisations were done sometime in 1988 and thereafter. In the circular dated 26.5.1989 it was ordered that those persons who have been regularised in the Construction Organisation, their dates of regularisation should be put back to 1.4.1973. This circular at Annexure-1 relates only to those casual workers who have been regularised in the Construction Organisation and only deals with the question of putting back their dates of regularisation to 1.4.1973, when the P.C.R. posts were created. This of course is subject to fulfilment of three conditions as laid down in that circular. The applicants have stated that they have been regularised in the Construction Organisation in 1988. This has been denied by

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the respondents. Applicants have not enclosed any orders under which they have been regularised in the Construction Organisation. In view of this it cannot be held that the applicants have at any point of time been regularised in the Construction Organisation and therefore, the contention of the respondents that applicants have not been regularised in the Construction Organisation must be accepted as correct. As the applicants have not been regularised in the Construction Organisation at any point of time, they are not entitled to get the benefit of circular at Annexure-1 and consequently they are also not entitled to arrears salary w.e.f. 1.4.1973. Learned Addl. Standing Counsel, apart from merits of the case submitted that this O.A. is barred by limitation, and not maintainable as the necessary parties have not been impleaded. But in view of our above discussion and findings it is not necessary to go into these two aspects.

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

MEMBER (JUDICIAL)

11/12/01

VICE-CHAIRMAN
11/12/2001

Free copies of final
order dt. 11/12/2001
issued to counsel
for both sides.

DS
13/12/01

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