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ORIGINAL APPLICATION NO.561/2000

ORDER DATED: 10 / 08/ 2005.

Applicants, 11 in number, have approached this Tribunal seeking the following relief.

“...direct the Respondents to give engagement of the applicant by providing them temporary status and all the service benefit be extended to them with all the consequential benefit and the arrear dues be paid within a stipulated period”.

2. Respondents-Railways have filed their counter contesting the prayer of the applicants. Applicants have also filed rejoinder to the counter.
3. We have heard Mr. S. Mohanty, learned counsel appearing for the Applicant and Mr. Ashok Mohanty, Learned Senior Counsel appearing for the Respondents and perused the materials placed on record.
4. It is the specific case of the Respondents that the applicants having been engaged through the contractors, they do not come under the definition of holders of civil post. The applicants have based their claim on the experience certificate given by the railway authorities and it is in this background, they have made out a case that as if they were the persons engaged by the Railways. In this connection, we have gone through

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certificate given by the Shop Superintendent of erstwhile S.E.Railway under Annexure-1, which reads as under:

"It is to certify that Sri Joy Krishna Rout, S/o. Sudershan Rout has worked with TRT m/c for about two years as a contractor man. His working ability and behaviour is good and satisfactory".

5. From the above it is clear that the said Shop Superintendent, TRT had granted an experience certificate to Shri Joy Krishna Rout (Applicant No.11) not as a person engaged by the Railways, but as a contractor's man. It is in this background, we would like to quote what the Respondents-Railways have stated in Para 13 of their counter which reads as under:

"It is humbly submitted that the applicants have not been engaged by the railway administration. Therefore, they do not come under the definition of casual labourer nor they are entitled to any benefit as is applicable to the casual labourer engaged directly by the railway administration".

6. The above said averments of the Respondents- Railways have not been refuted by the Applicants in their rejoinder, except to the extent as indicated/quoted in Para- 4 above.

7. Having regard to the above factual position, we are of the view that the applicants having not been engaged by the Railway administration directly, they do not come under the definition of casual labours and in the

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circumstances, we are of the view that this case is not maintainable and, therefore, the same is dismissed. No costs.

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(B.N.SOM)
VICE-CHAIRMAN

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Mohanty
10/08/03
(M.R.MOHANTY)
MEMBER(JUDICIAL)