

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK**

ORIGINAL APPLICATION NO.554 OF 2001

Cuttack, this the 2nd day of April 2003

Narayan Barik & Others

Applicant(s)

Vrs.

Union of India & Others

Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ? 75
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? 150


(B.N.SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.554 OF 201
Cuttack, this the 2nd day of April, 2003

CORAM:

HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN

Narayan Barik, aged about 54 years, S/o Gani, Village/Po-Tarago, P.S-Banth, Dist-Bhadrak, at present working as a Store Watchman under P.W.I., Gorakhanath, S.E. Railway, Gorakhanath, Sl. No.96. & Others.

By the Advocate(s) Applicant
Mr. N.R. Routray

Vrs.

1. Union of India, represented through the General Manager, South Eastern Railway, Garden Reach, Calcutta-43, West Bengal.
2. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-43, West Bengal.
3. Deputy Chief Engineer, Construction, South Eastern Railway, At/P.O/P.S. Chandrasekharpur, Town. Bhubaneswar, Dist. Khurda.
4. Chief Administrative Officer, Construction, S.e. Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
5. Deputy Chief Personnel Officer, South Eastern Railway, Chandrasekharpur, Bhubaneswar, Dist. Khurda.

..... Respondent(s)

By the Advocate(s) - Mr. D.N. Misra,

O R D E R

SHRI B.N. SOM, VICE-CHAIRMAN:

2 This O.A has been filed by Shri Narayan Barik, S/o Gani Barik and 21 others at present working as Gangman, Store Watchman, Keyman and Trolleyman under their respective P.W.Is. seeking a

direction to the Respondents for grant of LAP and increment as admissible to the regular employees.

2. Shorn of details of the facts of the case are that the applicants were initially appointed as casual gangman prior to 1.4.1973 and were brought to the regular establishment during the years 1990 and 1991. Referring to the circular dated 26.04.89 issued by Respondent 2, they have claimed that after their regularization, they should be given the benefit of LAP, increment etc from 01.04.1973. They have further stated that the Respondents could have given these benefits to them on the strength of the circular dt. 26.04.1989 which provides that absence/breaks in casual service may be regularized by grant of leave/extraordinary leave which they would be entitled to on regularization of casual service.

3. The Respondents have controverted the claim of the applicants by filing a rejoinder. In the first instance they have objected to the application on the ground that it is barred by law of limitation as also by Section 23 of AT Act, 1985. They have stated that the applicants have prayed for relief on the basis of the circular dt. 26.04.1989, that is after expiry of more than 10 years. Further that they had never represented anything in this matter to the Respondents before September, 2001. On the facts of the case they have submitted that the applicants were considered for regularization during the year

1992/93 and not in 1989/90. They have pointed out that LAP benefit is not feasible from a date prior to 01.01.1981 as service books were opened only on grant of temporary status, that is, from 01.01.1981 only. The salary/wages of these applicants were drawn on the basis of casual rank/gang register which are no longer available at this point of time. Over and above that, as these benefits were not granted to any casual worker on engagement between the period 01.04.73 to 31.12.80 the prayer made in this O.A. is not tenable.

4. I have heard Mr. N.R. Routray, Ld. Counsel for the applicant and Mr. D.N. Mishra Standing Counsel for the Railways. I find lot of merit in the argument put forth by the Respondent that the concept of LAP and grant of increment from the period from 01.04.73 to 31.12.80 is a novel one and not feasible. The Railway Board had introduced this scheme for granting temporary status to the casual workers with approval of the Apex court. The scheme so framed not only deliberated on how to grant temporary status to the casual laborers, it also included the various service benefits to be made available to these workers. Later on, the service conditions were further taken before the Apex court for scrutiny which it passed. The scheme so approved by the Apex court for the casual workers with temporary status did not include the concept of either LAP or

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after obtaining approval of the Apex Court, there is little scope to tinker with it from time to time although the Union Government is at liberty to expand its scope as and when it decides to do so. Be that as it may, as the present Scheme does not contain any such privilege as L.A.P/increment for usual service period. This O.A. fails. I order accordingly. No costs.


(B.N. SOM)
VICE-CHAIRMAN

CAT/CTC
Kalpeswar