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OA 205/06

Notes of the Registry

Orders of the Tribunal

On 21.03.06

For Admission &  
interim order  
with limitation  
No. 145/06 for  
joint petn  
copy sent.

L  
20/3

Bunel

Copies of order dt.  
21.3.2006 along with  
copies of Cause Note  
issued to counsel for  
both sides.

Sh  
31/3/06

On 21.03.06

~~Order~~ copies of  
order / copies of  
OA sent to all  
members.

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ORDER NO.1 DATED: 21.03.2006

19 Applicants have filed this Misc.  
Application No.145/06 seeking permission to prosecute  
this O.A.No. 205/06 jointly. Heard. Prayer for prosecuting  
this case jointly is hereby rejected.

Mr. Dhalsamant, Ld. Counsel appearing for  
the Applicant undertakes to deposit an amount of Rs. 900/-  
in shape of Bank Draft in course of the day. On payment of  
the said amount, the Registry to confine the present  
O.A.No. 205/06 in respect of Applicant No.1 and assign  
separate O.A.Nos. for the Applicant Nos. 2 to 19.

21/03/06  
MEMBER (JUDICIAL)

ORDER NO.2 DATED: 21.03.2006

19 Applicants in this Original Application,  
filed under Section 19 of the Administrative Tribunals Act,  
1985, have prayed for issuance of a direction to the  
Respondents to discontinue the practice of engaging  
outsiders as substitutes and to direct the Respondents to  
engage the Applicants as substitutes in the casual  
vacancies arising under the Respondents (from time to  
time) when the permanent or the temporary employee  
remains absent either on Earned Leave or temporary sick  
leave or leave etc.

2. The brief facts of this case are that the  
Applicants, as claimed by them, were registered as  
'substitutes' under the Respondents during 1972. It is the  
case of the Applicants that in accordance with Railway  
Board circulars (No. E. (NG)65 LR I-1 of 01.09.1965,  
Sl.No. ER 6149/NR 3147 No. (NG) II/77/SB/37 of

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

24.10.1978 and Sl.No. NR 7141/ER/83/78), it has clearly been laid down that a register should be maintained recording the names of all substitutes (wherever employed in Railways) and that, at the time of short or long vacancies occurred from time to time, those vacancies should be filled up by the substitutes enrolled in the Register in question. It has been alleged by the Applicants that certain persons, junior to them in the list/register of substitutes maintained, have also been given permanent Grade 'D' posts.

3. Contesting the case (for the Respondents), Learned Standing Counsel for the Railways (Mr. R.C.Rath) has mainly raised the question of limitation, on the ground that the Applicants have approached this Tribunal after lapse of several years. It has been stated, on behalf of the Respondents, that the Applicants did not approach the authorities/this Tribunal immediately after the alleged regularization of their juniors.

4. Heard Mr. D.P.Dhalsamant, Ld. Counsel appearing for the Applicants and Mr. R.C.Rath, Ld. Standing Counsel for the Railways.

5. Under the Railway Board circulars, as stated above, persons named in the Substitute Register were to be given job, as and when required and, ultimately they were available to be taken to regular establishment. The Applicants were neither given engagements as substitutes nor were considered to be taken to regular establishment, when their juniors were taken to permanent Gr. 'D' posts in gross disregard to the Railway Board



circulars which were statutory in character. Since there were violation of statutory provisions in the matter of giving engagements as substitutes and in the matter of taking the Applicants to permanent Gr. 'D' posts, the action of the Respondents cannot be allowed to stand in touch stone of the present judicial scrutiny.

6. That apart, when injustice is glaring, hyper-technical objections, as raised by the Ld. Standing Counsellor for the Railways with regard to the question of limitation, cannot be allowed to stand in the way for dispensation of justice and, therefore, the main objection of the Respondents, pertaining to question of limitation, is hereby overruled.

7. As a consequence, this Original Application is disposed of at admission stage. The Respondents are directed to closely examine the case of the Applicants in order to give them substitute employment and to take them to permanent Gr. 'D' posts. The case of the Applicants should receive due consideration within the outer-limit of 120 days from the date of receipt of a copy of this order.

8. Send copies of this order to the Respondents, along with copies of this O.A., and free copies of this order be given to the Ld. Counsel for both the parties. Copies of the Cause Title pages of the Original Application be supplied along with the copies of this order.

MEMBER (JUDICIAL)

21/03/06