

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR**

I/B

Date of Decision : 18.09.2003

Original Application No. 213/2002.

1. Mahender Singh S/o Shri Satidan Singh, aged about 41 years, R/o Qtr. No. L-46 H, Loco Colony, Northern Railway, Hanumangarh (Rajasthan).
2. Radjeusjua, S/o Shri Sampat Ram Aged about 40 years, R/o Qtr. No. B-34, Loco Colony, Northern Railway.
3. Moti Lal S/o Shri Kharta Ram, aged about 41 years, R/o Qtr. No. L-60 B, Loco Colony, Northern Railway, Hanumangarh (Rajasthan).
4. Jagdish Prasad Meena S/o Shri Gauri Shankar Meena, aged about 39 years, R/o Qtr. No. L-8B, Loco Colony, Northern Railway, Hanumangarh (Rajasthan).

.... Applicants.

V e r s u s

1. Union of India through the General manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Bikaner (Rajasthan).
3. Divisional Personnel Officer, Northern Railway, Bikaner (Rajasthan).

... Respondents.

Mr. S. K. Malik counsel for the applicants.
Mr. Manoj Bhandari counsel for the respondents.

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Hon'ble Mr. G. C. Srivastava, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

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: O R D E R :
(per Hon'ble Mr. G. C. Srivastava)

This is the second round of litigation.

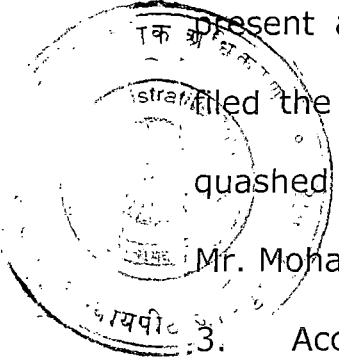
2. The applicants (4 in number) along with another Mr. Mohan Lal had filed OA No. 12/2001 before this Tribunal in the first round seeking regularisation of their services. The OA was disposed of on 10.12.2001 with a direction to the respondents to consider the

question of their regularisation according to law and pass a speaking order within a period of three months from the date of passing of the order. In pursuance of the above directions while the service of Mr. Mohan Lal was regularised the respondents passed an order dated 3.7.2002 (Annexure A-1 to Annexure A-5) rejecting the request of the

present applicants for regularisation. Aggrieved by this, they have

filed the present OA in the second round praying that the same be quashed and set aside and they be regularised in the same manner as Mr. Mohan Lal has been regularised with all consequential benefits.

3. According to the applicants they were engaged as Casual Labour w.e.f. 14.4.1978, 24.2.1978, 3.7.78 and 30.08.1980 respectively and were screened for regularisation vide letter dated 6.1.1987 (AnnexureA-5). From October 1991 they are discharging duties of a



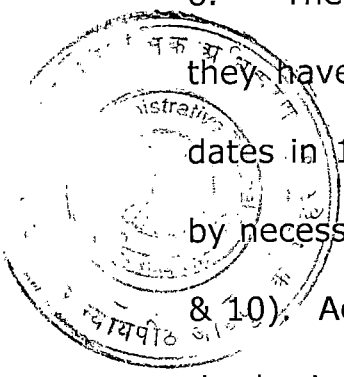
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Loco Cleaner. Another screening was conducted vide letter dated 14.3.1994 (annexure A-9) and though persons junior to them have been regularised in Group 'D' post, they have not been regularised. Even in the screening conducted in 1996 they were not regularised. They approached this Tribunal by filing OA No. 12/2001 but in spite of directions of the Tribunal dated 10.12.2001 (annexure A/4) they have not been regularised and the respondents have rejected their requests vide the impugned orders. Hence the OA.

4. The respondents have contested the OA and have filed detailed reply.

5. We have heard Mr. S. K. Malik and Mr. Manoj Bhandari, the learned counsel for the applicants and the respondents respectively and with their consent we are disposing of the OA at the admission stage itself.

6. The main ground advanced by Mr. Malik for the applicants is that they have been working as Casual Labours with effect from various dates in 1978 and 1980 and their period of service is duly supported by necessary documents issued by the respondents (Annexure A-6,7,8 & 10). According to him, while their juniors have been regularised on the basis of screening conducted in 1987, 1994 and 1996 they have not been regularised so far. On the other hand, Mr. Bhandari, for the respondents, has inter alia submitted that the engagement of the applicants was de hors the rules as their casual labour card was not

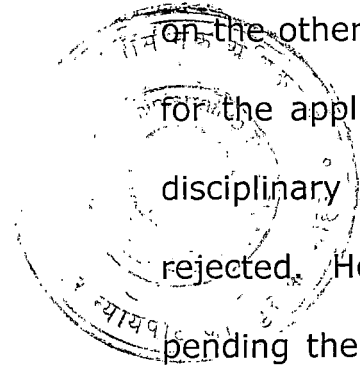


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issued by PWI/C/BTI and there was no entry in the official record regarding their casual labour card which were found to be bogus after screening. He has also stated that for the above act disciplinary action has been initiated against them and charge sheets issued vide letter dated 16.9.2002 (Annexure R-1) and as such there is no question of taking any action for their regularisation until the disciplinary proceedings are concluded. He has further contended that the applicants have obtained their employment by producing bogus casual labour card and, therefore, unless the departmental proceedings are finalised their cases for regularisation cannot be considered.

7. Mr. Malik, for the applicants, has submitted that the OA be kept pending till such time the disciplinary proceedings are finalised and depending on the outcome of the disciplinary proceedings necessary direction can then be issued by the Tribunal in the OA. Mr. Bhandari

on the other hand, submits that the submission of the learned counsel for the applicant to keep the OA pending on account of pendency of disciplinary proceedings is totally unwarranted and deserves to be rejected. He also submits that since the disciplinary proceedings are pending the question of regularisation of the applicants is premature and the OA deserves to be dismissed. He says that after the disciplinary proceedings are finalised and necessary orders are passed about their case they can approach this Tribunal once again if aggrieved and so advised.



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8. We have carefully examined the rival contentions and submissions made by the learned counsel for the parties. It is not in dispute that the present OA is for seeking relief for regularisation and though charge sheets have been issued to them & disciplinary proceedings are still pending. It is a case of regularisation of Casual Labour whose initial engagement itself is in doubt and is under investigation by the department by initiating disciplinary proceedings. It is a settled position that even in case of a temporary employee no benefits of regularisation can be extended if departmental enquiry is pending and, therefore, in the present case there is no question of any regularisation so long as the disciplinary proceedings are not finalised. Hence the claim of the applicants for regularisation, at this stage is clearly premature as the Tribunal can neither give any directions for regularisation, pending enquiry nor can it allow the OA to remain pending till the finalisation of those proceedings. In view of this, we are unable to accept the request of Mr. Malik to keep the OA pending till the disciplinary proceedings are finalised.

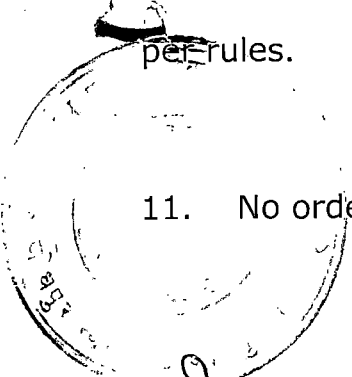
9. We have already earlier directed the respondents to consider their regularisation and pass an appropriate order. The respondents have regularised the ~~services~~ ^{of} Mohan Lal on the basis of screening and for the present applicants the matter is under investigation

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through departmental inquiry and, therefore, their cases for regularisation cannot be considered at this stage. We are, therefore of the considered view that the impugned orders cannot be faulted and the OA deserves to be dismissed.

10. In the result, the OA is dismissed. However, if they are aggrieved by the order when passed by the respondents in respect of their regularisation after conclusion of the disciplinary proceedings, the applicants are given liberty to seek appropriate legal remedy as per rules.

11. No order as to costs.



J. K. Kaushik
(J. K. KAUSHIK)
MEMBER (J)

G. C. Srivastava
(G. C. SRIVASTAVA)
MEMBER (A)

Part II and III destroyed
in my presence on 24.7.09
under the supervision of
section officer () as per
order dated 13/2/09

Section officer (Record)

R/C
on 24/9/2003
DGM
DARBAR
D.V.

Recd Cor
me
24/9/03