

Central Administrative Tribunal Lucknow Bench Lucknow.

Original Application No; 234/2003.

this, the 26<sup>th</sup> day of May 2004.

HON'BLE SHRI S.P. ARYA MEMBER(A)

1. Raj Mangal aged about 39 years son of late Raghunath (Cook), resident of Village Akhoopur, Post-Kopaganj, Hamirpur, Dist. Gonda U.P.
2. Jagdish Prasad Gupta about 45 years son of Sri Bachchoo Lal (Cook), resident of Sahabganj Changi Balrampur Road, District Gonda U.P.
3. Ramu Prasad about 33 years son of Sri Balikan Prasad (Helper) resident of Anand Niwas near Lohia Dharmshala, Station Road Gonda U.P.
4. Deepak Balmiki aged about 29 years son of Sri Jhallan Balmiki (Safaiwala), resident of Maharajganj, Ghosiyana, Post-Bargaon, District Gonda U.P.
5. Rajesh Kumar Kanojia, aged about 28 years son of Sri Vishwa Nath Kanojia (Helper), resident of Police Club Ke Samne Gandhi Nagar, District-Gonda U.P.
6. Jag Parsad Verma aged about 28 years son of Shri Ram Pher Verma (Cook), resident of Dutt Nagar Visheshan Purwa, Baswaria, Post Bargaon, District-Gonda U.P.
7. Om Prakash 1st aged about 34 years son of Sri Ram Bahor (Helper), resident of Jamunihi, Post Dhanepur, Dutt Nagar, District-Gonda U.P.
8. Chinta Ram Verma aged about 39 years son of Sri Het Verma (Helper), resident of Bhandaha, Post Kripal, District-Gonda U.P.
9. Ravindra Nath Pandey aged about 38 years son of Sri Rama Kant Pandey (Chaukidar), resident of Kelapur, Mundera, Post Baghera Mahuwari, District-Gonda U.P.
10. Shesh Narain aged about 28 years son of Sri Ram Abhilash (Helper), resident of Village-Madhya Nagar, Post Mokelpur, District Gonda-U.P.

11. Ram Nath aged about 33 years son of Sri Ram Lal (Helper) resident of Madhya Nagar Mokai Pur, District Gonda, U.P.
12. Vijay Kumar aged about 33 years son of Sri Mohal Lal (Helper) resident of Village Semara Colony, Post Narayan, Quarter No. 1/57, District Gonda, U.P.
13. Shiv Narain aged about 28 years son of Sri Ram Chander (Helper) resident of Village Khaira Pathak Purwa, Post Baragaon, District, Gonda, UP.
14. Ram lalit aged about 26 years son of Sri Ram Adhar (Helper), resident of Village, Ratan Pura Arjun Post Waltarganj, District Basti UP.
15. Shamim Ahmad aged about 33 years son of Sri Mohd. Shafi (Helper) resident of Khairabagh, Post Baragaon, District Gonda, U.P.
16. Ram Preet Kushwaha aged about 34 years son of Sri Bhola Kushwaha (Cook) resident of Hgursari Lal Road Baudi, District- Deoria.
17. Om Prakash Pathak aged abot 27 years son of Sri Ram Swaroop (Helper) resident of Village - Khairabagh, Post Baragaon, District- Gonda, U.P.

...Applicants

By Advocate: Sri R.K.Verma

VERSUS

1. Union of India through its Secretary, Ministry of Railways, New Delhi.
2. General Manager, North Eastern Railway, (Head Quarter) Gorakhpur.
3. Principal / Assistant Mechanical Engineer, Diesel Training Hostel, Eastern Railway, Gonda, U.P.
4. Divisional Railway Manager (P), DRMP, Lucknow.
5. Senior Divisional Mechanical Engineer, Diesel Shed, Gonda (UP)

...Respondents

✓ By Advocate: Sri N.K. Agrawal

ORDER

BY HON'BLE SHRI S.P. ARYA, MEMBER (A)

The applicants are working with the respondent No. 3 as Cook, Helper, Safaiwala and Chokidar. They were engaged as Casual Labour on the fixed pay in the year 1990-1991 onwards. They filed an O.A. No. 1076/95 in CAT, Allahabad Bench for regularisation of their services and the O.A. was disposed of on 14.2.2002 with the direction to the respondents to consider the case of the applicants for regularisation preferably within a period of 6 months from the date of communication of this order and pass suitable orders under intimation to the applicants. The respondents have passed the order dated 7.5.2002 (Annexure No.1) by which the claim for regularisation of the applicants in Government is found not acceptable. The applicants challenged the impugned order in CAT, Allahabad Bench. The O.A. 1407/02<sup>2</sup> was rejected as withdrawn with liberty to the applicants to file a fresh O.A. Hence this O.A. has been filed for quashing the impugned order dated 7.5.2002 (Annexure No.1) passed by respondent No.3 and for restraining the respondents from terminating the services of the applicants and also to absorb them as regular employees.

2. The case of the applicants is that they are working at Diesel Training Centre, Gonda under North Eastern Railways, which imparts training to Drivers who are permanent employees of Railway. The Centre is a Government body, employing the clerks, Head Clerks, six instructors headed by Principal. The infrastructure is being ~~is being~~<sup>4</sup> provided by the Railway Administration and entire financial affairs are controlled and managed by the apex body of Railway Administration. The Trainees are provided with

free food in the Railway Mess of the appropriate class as provided for in paragraph 429 of IREC Volume 1 (1971).

3. I have heard the counsel of both the parties and gone through the pleadings.

4. The counsel for the applicant has relied on G.B. Pant University Vs. State of Uttar Pradesh reported in 2000(3) ESC 2015 (SC), Parimal Chandra Raha <sup>and others</sup> Vs. Life Insurance Corporation of India <sup>and others</sup> reported in 1995 Supreme Court Cases (L&S) 983, Consumer Education and Research Centre and others Vs. union of India and others reported in 1995 Supreme Court Cases (L&S) 604, Mishra Dhatu Nigam Ltd. and others Vs. M. Venkataiah and others reported in (2003) 7 Supreme Court <sup>cases</sup> Cases 488, Indian Overseas Bank Vs. I.O.B. Staff Canteen Workers Union and another reported in 2000 (85) FLR 672 and AIR India Statutory Corporation and others Vs. United Labour Union and Others reported in 1997 Supreme Court Cases (L&S) 1344 and has argued that the applicants have ~~been~~ completed more than 240 days in every calendar years and they are continuously <sup>working</sup> working for about 10 years <sup>and therefore, they should be regularised.</sup>

5. Respondents in their counter reply has stated that the Mess is not being run under the control and supervision of railway nor there is any implicit obligation of the railway to run the mess. The mess of the hostel is being run as a private arrangement and the payments are being ~~made~~ made from the collections made by the trainees from their daily allowance. There is no statutory or contractual obligation on the railway to run the mess of the hostel of Diesel Training Centre, NER, Gonda. No appointments were made by the railways in the mess.

6. Counsel for the applicants has relied on Bheem Bahadur and others Vs. Union of India through General Manager, North Eastern Railway, Head Quarters, Gorakhpur and others (Civil Misc. Writ Petition No. 29008 of 1997) in which the Division Bench of Hon'ble High Court of Judicature at Allahabad, in a similar case of System Technical School Gorakhpur has dismissed the writ petition on the ground that it has no substance. The Hon'ble High Court has also discussed the MMR Khan and others Vs. Union of India and others case decided by the apex court on 27.2.90, G.B. Pant's case and Indian Overseas Bank's case.

7. It is argued by the learned counsel for respondents that ~~the facts of~~ the present case are fully covered by the judgement and order of the Hon'ble High Court given in Bheem Bahadur's case (Annexure B-1).

8. The Mishra Dhatu Nigam's case was with regards to the Canteen Workers in the statutory canteens run by the contractors. The Consumer Education and Research Centre's case was with regards to Occupational Health Hazards and not directly relevant to the present case. Parimal Chandra Raha's case relates to workers of contractor run canteens, run and managed by contractors. The facts and circumstances of these cases are different and verdict is in respect of autonomous bodies and not with regards to the Govt. Departments.

9. The judgement and order in Writ Petition No. 29008 of 1997 in Bheem Bahadur's case being on similar facts and circumstances fully covers the present case and it has also the binding effect.

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Relying on judgement of Bheem Bahadur's case, the  
O.A. is dismissed. No order as to costs.

स.प.आर्या  
(S.P.Arya)  
Member (A)

HLS/-