

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Lucknow this the ^{04th} day of ^{August} ~~July~~, 2000.

HON. MR.D.C.VERMA, MEMBER(J)

(1) O.A. No. 431/92

1. Ram Anjore, son of Bal Govind.
2. Raj Karan yadav son Ram Amar yadav.
3. Babu Lal son of Dullal
4. Ram Swarup son of Sukhram.
5. Vinod Kumar son of Hisit Lal. ,
6. Virendra Kumar, son of Misit Lal.
7. Kamlesh Chand son of Uma Lal.
8. Brij Pal son of Chandi Lal.
9. Om Prakash son/Ram Lakhan
of
10. Ram Samujh son of Maikulal
of
11. Puttan son/Gaya Prasad
of
12. Shripal son/Ram Prasad
13. Ram Shankar son of Ram Sukh

All worked as substitutes Porter under Station
Superintendent, Charbagh, N.R. Luoknow.

Applicants.

By Advocate Shri Ajmal Khan.

versus

1. Union of India through Secretary, Ministry of
Railways, Rail Bhawan, New Delhi.
2. General Manager (N.R.) Baroda House, New Delhi.
3. Divisional railway Manager, (N.R.) Divisional
Office, Haratganj, Lucknow.
4. Assistant Personnel Officer, Divisional Office,
Haratganj, (N.R.) Lucknow.

Respondents.

By advocate Shri A.K.Chaturvedi.

(2) O.A. NO. 584/92

Ram Raj, aged about 35 years, son of Shri ram Lakhan,
resident of Village Pachras, P.O.Raniganj, district
Pratapgarh.



BY Advocate Sri.Ajmal Khan.

Versus

1. Union of India, through secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager (N.R.) Baroda House, New Delhi.
3. Divisional railway Manager (N.R.) Divisional Office, Haratganj, Lucknow.
4. Station Master, Dandupur, Distt. Pratapgarh.

Respondents.

BY Advocate Shri. A.K. Chaturvedi.

(3) O.A.NO.604/92

Ram Pal, son of Budha Lal, resident of village- Anoara Post-amousi, District lucknow.

Applicant.

BY Advocate sri. Ajmal Khan.

Versus.

1. Union of India, through secretary, Ministry of Railways, Rail Bhawan, New delhi.
2. Divisional Railway Manager (N.R.) Divisional Office, haratganj, Lucknow.
3. Assistant Personnel Officer (N.R.), Divisional Office, Haratganj, Lucknow.
4. Statation Superintendent, Charbagh Rly.Statation (N.R.), Luckow.

Respondents.

BY Advocate Shri.S.Verma.

(4) O.A.NO. 648/93

1. Radhey Shayam, aged about 33 years, son of Shri Shiv darshan, resident of village Saheb Khera, P.O. Hadhha, Tehsil & distt. Unnao.
2. Ramesh Chand, aged about 33 years, son of Sri. Piarey Lal.
3. Shyam Bihari aged about 33 years, son of Shri. Sheo Pal.

4. Pradeep Kumar, aged about 33 years, son of Shri. Ram Pher.
5. Ram Surat, aged about 33 years, son of Shri. Ram Pher.
6. Indra Pal, aged about 32 years, son of Shri. Ram Dass.
7. Ram Din, aged about 32 years, son of Sri. Bholi.
8. Dinesh Kumar, aged about 32 years, son of Shri. Ram Harsh.
9. Rakesh Kumar, aged about 33 years, son of Sri. Bhैया Ram.
10. Ramesh Kumar, aged about 36 years, son of Shri. Samadhan.

All care of Shri Radhey Shyam, son of Shri Shiv Darshan, Resident of village Saheb Khera, P.O. Hadhha, Tehsil & Distt. Unnao.

Applicant.

BY Advocate Shri Ajmal Khan

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. Station Manager, Northern Railway, Charbag, Lucknow.

Respondents.

BY Advocate Shri. A.Srivastava.

(5) O.A.NO. 41/94

1. Shiv Vardan, aged about 36 years, S/o Sri. Pal.
2. Ram Bharose, aged about 34 years, S/o Sri. Pathwarilal.
3. Dharmanand, aged about 35 years, S/o Shiv Prasad.
4. Bholi Nath, aged about 35 years, S/o Ram Sewak.
5. Rakesh Kumar, aged about 33 years, S/o Ram Nath.
6. Amrit Lal, aged about 33 years, S/o Sri. Chandra Pal.



7. Ram Das, aged about 35 years, S/o Sri. Mahesh.
8. Muneshwar, aged about 34 years, S/o Sri. Nanhey.
9. Avadh Pal, aged 34 years, S/o Sri. Bhikha Lal.
10. Anjani Kumar, aged about 34 years, S/o Surya Pratap Singh.
11. Mansa Ram, aged about 34 years, S/o Sri. Babadin.
12. Vinod Kumar, aged about 34 years, S/o Hira Lal.
13. Satish Kumar, aged about 34 years, S/o Chaitu Ram.
14. Lal Bahadur, aged about 33 years, S/o Sri. Babadin.
15. Om Prakash, aged about 34 years, S/O Sri. Bihari Lal.
16. Tirbhuwan, aged about 33 years, S/O Sri. Ram Surat.
17. Ram Narain, aged about 34 years, S/O Sri. Badloo Ram.
18. Arun Kumar, aged about 33 years, S/o Sri. Kishan.
19. Vinod Kumar, aged about 34 years, S/o Sri. Awadesh Prasad.
20. Jai Prakash, aged about 35 years, S/O Sri. Ram Das.
21. Shiv Ram, aged about 34 years, S/o Sri. Chandrika Prasad.
22. Saheb Din, aged about 34 years, S/o Sri. Rahul.
23. Shitla Prasad, aged about 34 years, S/o Sri. Holi.
24. Kanhaiya Singh, aged about 35 years, S/o Chandrama Singh.
25. Kripa Shanker, aged about 33 years, S/O Mata Pher.
26. Suresh, aged about 34 years, S/o Sri. Sunder Lal.
27. Ashok Kumar, aged about 33 years, S/o Ram Lakhan.
28. Om Prakash, aged about 35 years, S/o Sri. Gaya Prasad.



29. Virendra Nath, aged about 39 years, S/o Sri. Ram Asary.
 30. Dhrup Kumar, aged about 33 years, S/o Sri. Phakire.
 31. Vijay Kumar, aged about, 34 years, S/o Sri Ram Bharosay.
 32. Ram Bachan, aged about 33 years, S/o Sri. Rajju.
 33. Raj Kumar, aged about 34 years, S/O Sri. Parmeshar Din.
 34. Harish Chandra, aged about 35 years, S/o Sri. Chatrapal.
 35. Dilip Kumar, aged about 32 years, S/O Sri. Ram Lakhani.
 36. Rajendra Kumar, aged about 33 years, S/o Sri. Chatra Pal.
 37. Rajesh Kumar, aged about 34 years, S/o Sri. Chottey Lal.
 38. Ram chandra, aged about 34 years, S/o Sri. Radhika Prasad.
 39. Dinesh Kumar, aged about 33 years, S/o Jagannath.
 40. Rajendra Prasad, aged about 33 years, S/o Sri. Mohal Lal.
- All care of Sri Ram Bachan, son of Sri. Rajju, Chota Berha, Alambagh, Lucknow.

Applicant.

BY Advocate Sri.Ajmal Khan.

Versus

1. Union of India through the General Manager, Northern Railway, baroda House, New Delhi.
2. Divisional railway Manager, Northern railway, Hazratganj, Lucknow.
3. Station Superintendent, Northern railway, Charbagh Rly. Station, Lucknow.
4. Station Master, Baragaon, Northern Railway, Distt.Barabanki. 0

5. Sri. P.N.Tripathi, Assistant Personnel Officer-II, Northern railway, Divisional Railway Manager Office, Hazratganj, Lucknow.

6. Sri. Imtiaz Ahamad, Assistant Optg. manager (M) Northern Railway, Divisional Railway Manager Office Hazratganj, Lucknow.

Respondents.

BY Advocate Sr. A.R. Chaturvedi.



O.A. NO. 271/95

1. Sheo Shanker, aged about 34 years, son of Sri. Tuls Ram.

2. Om Prakash Singh, aged about 34 years, son of Sri. Vijay Bahadur Singh.

3. Ram Manohar, aged about 34 years, son of Sri. Brahma Din.

4. Ramesh Kumar, aged about 32 years, son of Sri. Maikoo.

5. Hari Lal, aged about 33 years, son of Sri. Sant Ram.

6. Kanhaiya Lal, aged about 33 years, son of sri. Mangal.

7. Ram Chandra, aged about 33 years, son of Sri. Medi lal.

8. Mohd. Shakeel, aged about 34 years, son of Sri. Abdul Khaliq.

9. Ashok Kumar, aged about 34 years, son of Sri. Ayodhya Prasad.

All Care of Sri Ram Baboo, House No. 3, Sheetal Square Colony, Mehdiganj, Lucknow.

Applicant.

BY Advocate Sri. Azmal Khan.

Versus

1. Union of India through the General Manager, (N.R.) Boroda House, New Delhi.

2. General Manager, Northern Railway, Baroda House, New Delhi.

3. Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.

4. Loco Foreman, Northern railway, Alambagh, Lucknow.

Respondents.

BY Advocate Sri.A.K. Chaturvedi.

(7) O.A. NO. 721/94

Matroo Son of Shri Dhan Raj, Resident of Village Bhabhi Purwa, Din kanpur, Post Pindoriya District Faizabad.

Applicant.



BY Advocate Sri.Ajmal Khan.

Versus

1. Union of India through Secretary Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager (N.R.) Baroda House, New Delhi .
3. Divisional Railway Manager, (N.R.) Divisional Office, Hazratganj, Lucknow.
4. Assistant Personnel Officer (N.R.) Divisional Office, Hazratganj, Lucknow.

Respondents.

BY Advocate Sri.A. Srivastava.

(8) O.A. NO. 453/96

Virendra Bahadur Singh, Son of Shri rajendra Bahadur Singh, Presently residing at Village Chilbila, (Gurdwara-Road) Post Ranjeet Pur, Distt. Pratapgarh, Permanent Address- Village and Post rajgarh, distt Pratapgarh.

Applicant.

BY Advocate Sri. Ajmal Khan.

Versus

1. Union of India, through secretary, Ministry of Railway, Rail Bhawan, New Delhi.

2. General Manager (N.R.) Baroda House, New Delhi.
3. Divisional Railway Manager(N.R.) Divisional Officer, hazratganj, Lucknow.
4. Station Superintendent (N.R.) Chilbila Jn. District Pratapgarh.

Respondents.

BY Advocate Sri.Anil Srivastava.

O R D E R



As the relief claimed in all the O.As is same and they have been heard together, & they are being decided by a common order.

2. In three O.As namely O A. No. 584/92, 721/94 and 453/96, the applicants have been working as Hot Weather Staff. In other O.As the applicants claim to have worked as Substitutes.

O.A. 41/94

3. in O.A. no. 41/94 there are 40 applicants. These 40 applicants alongwith 5 others had earlier filed O.A. No. 259/91 titled Sheo Vardhan and 44 others vs. union of India and others. The said O.A. was decided vide order dated 24.2.93 (copy Annexure -2 to O.A. no. 41/94). While deciding the said O.A., the Tribunal passed the following order:

"Accordingly, the respondents are directed to engage the applicants again and after exhausting all the applicants for regularisation, juniors will be regularised in accordance with law. In case there is entry on the basis of fake card, an enquiry will be made associating the applicants and in the enquiry it will also be looked into as to why the Railway Administration tolerated this thing for years. The above directions/observations may be carried out within 3 months. The application is disposed of as above. No order as to costs."

4. The Department informed all the 45 applicants of the said O.A. to attend the enquiry with all relevant documents in their possession to prove their working/engagement in the Railway. Out of 45

applicants of the said O.A. Ram Dhiraj and Ganga Ram Sharma (not the applicants in the present O.A.) have been screened and regularised. The enquiry committee consisted of three officers. None of the present applicants filed any document regarding their working days and engagement before the enquiry committee. The applicant No. 25, according to the respondents, appeared before the enquiry committee on 6th August, 93 and informed that he had worked between 1.7.77 to July, 1979, but could not produce any document. Therefore, the committee, as stated in the Counter Affidavit, made enquiry from the Station Master Baragaon. The Station Master Baragaon informed that the applicant No. 25 never worked as per the record available at the station. The respondents have filed a copy of the statement of the applicant No. 25. IN the case in hand, the applicant No. 25 has filed copy of working certificate (Annexure A-5) and applicant No. 23 has filed copy of working certificate (Annexure A-7). None of the other applicants have filed any document to support their claim of working.

5. Anneure 5 and Anneure 7 have been denied by the respondents. If the applicants had that paper with them, they should have produced the same before the enquiry committee, which was making enquiry on the direction of the Tribunal. Once an opportunity was offered to the applicants, to place their claim before the enquiry committee and the applicant failed to do so, they cannot be permitted to raise the same issue again and again. Besides this, none of the other applicants produced any document before the enquiry committee and the enquiry committee, after examining station records, reached the conclusion that none of the present applicants ever worked in the Department.



6. The learned counsel for the applicant has placed reliance on various circulars regarding maintenance of panels, registers etc. but they are not relevant in the present case. The panels and registers etc. are maintained in respect of persons who have actually worked. None of the present applicants are found to have worked in the Department, so their names cannot be found in the panel or in the register etc. The applicants of this case therefore, have no case. Consequently, O.A. no. 41/94 is dismissed.

O.A. no. 271/95

7. The 9 applicants of this O.A. claim to have worked as Substitutes. According to the respondents, the applicant No. 4 was never engaged, whereas the applicants of the present O.A. fraudulently obtained engagement in connivance with the subordinate staff without sanction and approval of the competent authority. All those who obtained engagement without proper approval of the competent authority were disengaged vide order dated 4.10.1981. All the applicants of the present O.A. were disengaged on the said date. The working certificates filed by the applicants have been challenged by the respondents as not genuine. The plea of limitation has also been taken.

8. The learned counsel for the parties have been heard at great length. Admittedly, all the applicants were disengaged on 4.10.81. The disengagement was never challenged by the applicants. The present O.A. has been filed in the year 1995. In this O.A. also the disengagement order has not been challenged. The relief is to quash the decision dated 31.1.95 (Anneure-20 to the O.A.). The impugned document dated 31.1.95 is a D.O. letter written by the D.R.M. Northern Railway to Shri Brahmchari Vishwanath Shastri Member of Parliament. Such a D.O. letter



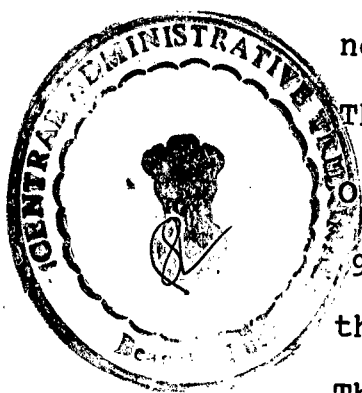
cannot be impugned by the applicant in the present O.A. This Tribunal cannot quash the D.O. letter written to a Member of Parliament on request of the present applicant. The relief claimed in the present O.A., therefore, to that extent cannot be granted. Further, in view of the decision of the apex court in the case of Secy. to Govt. of India vs. Sheo Ram Mahdu/Gaikwad reported in 1995 SCC(L&S), 1148 the present O.A. is not maintainable on the point of limitation also. This O.A. no. 271/95 is accordingly dismissed.

O.A. 648/93

9. There are 10 applicants in this case. All of them claim to have worked as Substitute upto 31.12.83. The first representation was sent in June, 1993 and the same was rejected in July, 1993. The order of disengagement given in December, 1993 was never challenged by the applicant. None of the applicants worked after that date. A representation made 10 years after disengagement would not give rise to any fresh cause of action even if the same is rejected by the Department in July, 1993. The cause of action arose to the applicant in Dec. 83, which is beyond the period of limitation prescribed under section 21 (2) of the A.T. Act. Consequently, in the light of the decision of the apex court in the case of Shiv Ram Mahdu Gaikwad (supra) the claim of the present applicants also cannot be granted. The O.A. No. 648/93 is therefore, dismissed.

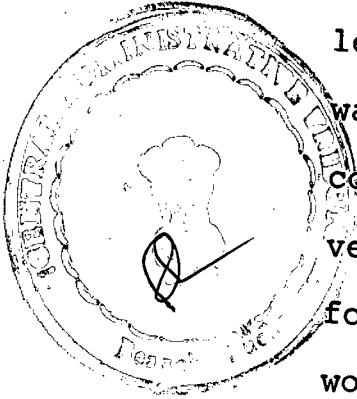
O.A. no. 431/92

10. There are 13 applicants in this case. All of them claim to have been engaged as Substitute Porter before the year 1978. The number of working days of each of the applicant is given in para 4(V) of the O.A. None of the applicants have filed any documents in support of their working period.



11. ~~These~~ respondents have denied the engagement of the applicants except ^{of} ~~the~~ applicant No. 3 Babulal and applicant No. 12 Sripal. According to the respondents, the applicant No. 3 had worked for 53 days and applicant No. 12 had worked for 660 days. After the aforesaid working, both the applicants had left the engagement on their own. A computerised list was prepared in view of the representations of the concerned individuals but the same was subject to verification of the concerned records, ~~but~~ ^{it} it was found that except applicant No. 3 and 12 none ever worked as casual labourer or as Substitute. The serial Number and number of working days indicated by the applicants in the O.A. has been denied by the respondents. It has been submitted that these are fictitious numbers.

12. As there is no document of working in respect of applicants (except applicants 3 and 12), their claim cannot be accepted. The claim of applicants 3 and 12 has been accepted by the respondents so far their engagement for limited period is concerned. So these two applicants have some claim. In view of this, the applicants No. 3 and 12 have better claim of engagement as against fresh faces. The claim of other applicants deserves to be dismissed. The respondents shall in view of the earlier working period of applicants 3 and 12, hold enquiry in respect of their working days after affording an opportunity to applicants to furnish documents if any in their possession in support of their claim of working days. Thereafter, the respondents shall examine the relevant record to verify the working days. In case it is found that the applicants have ever worked, an appropriate order in respect of engagement /screening /regularisation be passed by the competent authority.

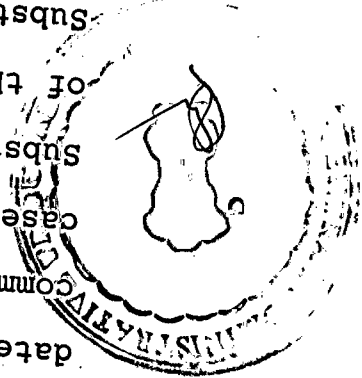


In case it is found that the applicants have never worked, the result of enquiry shall be communicated to the applicant with reasons. This O.A. stands decided accordingly.

O.A. 604/92

13. The only applicant of this O.A. claims to have worked as Substitute Porter w.e.f. 15.3.1977 for about 2726 days. The applicant was issued a notice dated 17.8.1991 to appear before the Screening Committee between 5.9.90 and 7.9.90. The respondents' case is that the applicant has never worked as Substitute Porter or in any other capacity. The name of the applicant was somehow entered in the list of Substitute/Casual labour and consequently, the notice Annexure-1 dated 17.8.90 was sent to the applicant for screening. The other ground of the respondents is that the O.A. is grossly barred by limitation. .

14. According to the applicant, in pursuance of the call letter the applicant appeared before the Screening committee. His date of birth and working days etc. were verified and the applicant was also put to physical fitness, ~~however~~ ^{still} the name of the applicant was not in the list dated 16.11.90, ~~but~~ the applicant was not individually informed about the result of screening and therefore, the applicant filed this O.A. in the year 1992. In view of this, in my view the O.A. is not barred by limitation. It is not the case of the respondents that the applicant was never engaged and the applicant could not produce any relevant document to substantiate his claim. ~~however~~ Annexure-1 shows that the applicant was screened. Consequently, the case of the applicant requires that a proper enquiry be made with respect of the documents and record of the places where the applicant allegedly worked. In view of this, the



respondents are directed to hold an enquiry in respect of working days etc. after affording an opportunity to the applicant to furnish the documents if any in his possession in support of his claim of working days. Thereafter, the respondents shall examine the relevant records to verify the work. In case it is found that the applicant has ever worked, an appropriate order in respect of engagement/screening/regularisation be passed by the competent authority, but in case it is found that the applicant has never worked, the result of enquiry shall be communicated to the applicant with reasons. This O.A. stands decided accordingly.



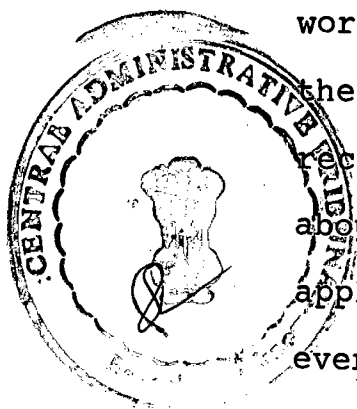
O.A. no. 584/92

15. The applicant of this O.A. has claimed to have worked as Hot Weather Staff w.e.f. 26.4.75 till 14.7.91. The applicant has also filed a copy of Casual labour card Annexure A in support of his claim. A copy of letter from Station Master (Annexure -E) dated 10.3.90 has been filed to show that the name of the applicant was not in the panel list and consequently, he could not get a chance to appear in the selection held in the month of February, 1990.

16. In their counter affidavit, the respondents' case is that the applicant has never worked as Casual labourers (Hot Weather staff). Further case of the respondents is that only those casual labourers (Hot Weather Staff) screened and empanelled in the year 1992 who had worked under the respondents and whose name was in the Computer list in view of the number of working days.

17. In the Rejoinder Affidavit, the applicant has specifically stated that Chhotey Lal Misra, the then Station Master of Dadupur signed the Casual labour Card and the working certificate was issued by the Station Master Shri N.K. Srivastava. Thus, there is

specific mention of the name of railway officers who are said to have signed the working certificate and the casual labour card. Consequently, without proper enquiry, the applicant's claim and the denial of the respondents cannot be accepted. Accordingly, the respondents are directed to afford an opportunity to the applicant to give details of his working days and produce all documents in support of his claim of working. Thereafter the respondents shall consider the applicant's claim, verify the working from the records of the concerned places and shall enquire about the genuineness of the documents filed by the applicant. In case it is found that the applicant has ever worked, as Hot Weather Staff, his working period shall be taken into consideration as per rules for future engagement. In case, it is found that the applicant has never worked, and the documents filed by the applicant are not genuine, he shall be informed accordingly.



O.A. No. 721/94

18. The applicant of this O.A. claims to have worked as Hot Weather Staff w.e.f. 13.6.87 for a period of 407 days with the Station Superintendent Northern Railway Varanasi. The engagement certificate has been filed as Anneuxre-1. The applicant claims that he was given temporary status in the year 1989 and was subsequently engaged as seasonal Waterman in the year 1991. It is admitted to the respondents that the applicant was engaged as casual labourers after obtaining approval of the competent authority for providing Water to the passengers during summer season. The work of the applicant was only seasonal. The applicant was put to screening test but the applicant was found not fit for regularisation.

19. The claim of the applicant is that he be regularised alongwith other candidates as per list dated 29.5.93. Further prayer is that the respondents be directed to engage the applicant as casual labour.

20. It is a case where ~~the work of~~ the applicant was put to screening test. Once the screening committee has not found the applicant fit for regularisation, the applicant can have no claim to be regularised alongwith the persons who were regularised by the said screening committee. However, even if the applicant was not found fit by the screening committee, his name cannot be taken off the list. The respondents have not specifically denied that the applicant was granted temporary status. Thus, being a temporary status holder, the applicant has a better claim for engagement. In any future screening test also the applicant has a claim to appear. Accordingly, the respondents are directed to engage the applicant as and when the vacancy arises in preference to new face and to screen the applicant as per the seniority, in subsequent screening test for regularisation against Group D post.

O.A. No. 453/96

21. The applicant of this O.A. has prayed that he be screened for empanelment against class IV post. According to the applicant's case, he has put in 655 days as Hot Weather Staff between 15.4.85 to 16.7.91. The applicant has filed Annexure-1 about the number of working days. Annexure -2 is a copy of letter from Station Master to the D.R.M. Northern Railway on the subject that the name of the applicant was omitted from the screening list though the applicant had worked as Hot Weather Staff. The respondents' case is that the applicant was never in the employment of the respondents. The authenticity of Annexure-1 has been categorically denied.



22. As per recital made in the Rejoinder, when the name of the applicant was not included in the list dated 12.6.95, the applicant made representation on 18.4.96 (Annexure-3 to the O.A.) and as no relief was given to the applicant, he filed the present O.A. on 2.9.96. The applicant has also filed copy of Station Duty pass (Annexure R-1 to the R.A.) to show that the applicant was engaged at Railway Station Chilbila. On the facts of this case, in this case also it is necessary that the respondents make an enquiry. Accordingly, it is directed that the respondents shall afford an opportunity to the applicant ⁵ and to make a representation giving details of his working days along with copies of documents in support of the same and thereafter the respondents shall make an enquiry to verify the working days from the records of the Department. In case it is found that the applicant has worked for a certain period, an appropriate order will be passed and the applicant shall be screened on its turn considering his number of working days and shall be engaged in preference to fresh face. In case however, it is found that the documents filed by the applicant are not genuine, and the applicant has not worked on any date, the applicant shall be informed accordingly.

23. In view of the discussions made above, O.A. no. 41/94, O.A. no. 271/95, O.A. no. 648/93 are dismissed. O.A. No. 721/94, O.A. No. 453/96, O.A. No. 584/92 and O.A. no. 604/92 are decided as per directions given above.

24. In O.A. no. 431/92, the case of applicants other than the applicants 3 and 12 is dismissed. The claim of applicant No. 3 and 12 would be considered by the respondents as per directions given above. Compliance of the orders would be made by the

respondents within a period of three months from the date of communication of this order. Costs in all the O.As easy.

Sd/
MEMBER(J)

Sd/
Lucknow Dated; 04.8.2000

Shakeel/

WRITTEN COPY
for
G.A.E.
21/8