

Orig. in OA
203/92

Duplicate for Trial
84

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, GULESTAN BUILDING NO. 6
PRESCOT ROAD, FORT, MUMBAI-400001.

OA 203/92 with OA 75/92 & 1177/92.

Dated this 27th day of March 1997.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)

2) Hon'ble Shri M.R. Kolhatkar, Member (A).

O.A. 203/92

1. Swamidurai Sundresan
2. Rajamanickam Harsen
3. Suryakranthi Kuttaikalai
4. Kalian Sivaperumal
5. Malarkodi Vellukaran
6. Muthu Harsan
7. Karunanidhi Alagappan
8. Saroja Anyamuthu
9. Periyaswamy Ponnuswamy
10. Alamel Perumal
11. Hinatullah Alim (Deleted)
12. Halim Davu (Deleted)
13. Kaliamurthy Mukelathan
14. Vadivel Pethavandan
15. Munian Dharuman
16. Annadurai Kuppan
17. Channadurai Kuppan
18. Muthukareppan Pennuswamy
19. Swamivel Sellan
20. Kolenchnathan Subramanyam
21. Ranganathan Armugam (Withdrawn)
22. Kamla Karuppan (Withdrawn)
23. Kaliyan Thandamuthu
24. Chintamani Sadayamuthu
25. Anjalia Ayyakhanu
26. Basha Annu (Deleted)
27. Zubidabi Basha (Deleted)
28. Hanif Rehman (Deleted)
29. Mumtaz Hanif (Deleted)
30. Sella Pangi Kuttan
31. Durai Swami Sellan
32. Amrawati Sadiyan
33. Kannadasan Palani Muthu
34. Narayanswami Adimulam
35. Ramaya Laxman
36. Kuppswami Kaliyan
37. Ramanibai Munuswami
38. Kanda Swami Krishnan
39. Baloo Mahadev

All of them are working under
the Permanent Way Inspector
(Construction), Central Railway
residing c/o Permanent Way
Inspector (Construction)
Central Railway, Jaso

c/o Sushilkumar P. Halwasia
Advocate High Court
6, Alka, 'B' Road,
Marine Drive
Churchgate
Bombay 400 020.

(By Advocate Shri D.V. Gangal) ... Applicants

v/s

1. The General Manager,
Central Railway, Bombay VT.
2. The Chief Engineer
(Construction) (South)
Central Railway, Bombay VT.
3. The Executive Engineer
(Construction), Central
Railway, Panvel.
4. The Divisional Manager
Railway Manager, Personnel
Branch, Bombay, Central
Railway, Bombay VT.
5. The Permanent Way Inspector
(Construction) Central Railway
Jasai.

(By Advocate Shri S.C. Dhavan,
Central Govt. Standing Counsel) ... Respondents

O.A. 75/92

1. Subramainyan Kadhrvel
2. Karuppan Arumugam
3. Kolanje Karuthan
4. Muthu Swami Rama Swami (Withdrawn)
5. Ramai Arumugam (Withdrawn)
6. Alagamutau Muniyan
7. Dhanakodi Kesvan
8. Alagamuthu Kumara Swami
9. Saroja Govindynel
10. Anjale Veramuthu
11. Anjale Munu Swami
12. Meenachi Swami Kanu
13. Kaliya Parumal Muniyan (Deleted)
14. Kuppuswamy Munnuswamy
15. Kariammal Gopal
16. Arjunan Kuppan

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~~residing c/o Permanent Way~~
Inspector (Construction)
Central Railway, Jasai (Maharashtra)
c/o Shri S.P. Halwasia
6, Alka, B Road, Marine Drive,
Bombay 400 020.

(By Advocate Shri D.V. Gangal)

... Applicants

v/s

1. The General Manager, Central Railway, Bombay - VT.
2. The Chief Engineer (Construction) (South) Central Railway, Bombay VT.
3. The Executive Engineer (Construction), Central Railway, Panvel, Dist: Raigad Pin Code 410210.
4. The Divisional Manager, Railway Manager, Personnel Branch Bombay, Central Railway Bombay VT.
5. The Permanent Way Inspector (Construction), Central Railway, Jasai, Maharashtra.

(By Advocate Shri S.C. Dhawan,
Central Govt. Standing Counsel)

... Respondents

OA 1177/92

1. Anjapulie Katiyan
2. Achiyamal Mayven
3. Dhansingh Madhu (Deleted)
4. Berasi Manga (Deleted)
5. Maniebai Rupia
6. Rukminibai Dhansingh (Deleted)
7. Shantibai Cihnu (Deleted)
8. Megraj Khisan
9. Ranibai Megraj
10. Saju Zappa
11. Annamalai Chanaswamy
12. Khisosrie Jokilal (Deleted)
13. Murty Parameshwar
14. Vembai Gopal (Deleted)
15. Muthu Swamy Chinnapaiyam
16. Chanalal Ranjitsingh (Deleted)
17. Maturbai Kunjilal
18. Ramshri Balkaswar
19. Davied Chanapaiyan
20. Mohan Nana
21. Periyaswamy Mayvan
22. Awaramboo Palamali (Deleted)
23. Golhandapani Arumugam (Deleted)
24. Anjali Mangati (Deleted)
25. Paduluchand Dayanietti (Deleted)
26. Suloshana Kaliya (Deleted)
27. Thangrajan Muthan
28. Selamma Arumugam
29. Karuppuswami Selan, (Deleted)
30. Narayan Swamy Krishan (Deleted)
31. Anjali Karupan (Deleted)

32. Sellvaraj Pariyan
33. Ramaswamy Mangan
34. Manikkam Muthulingam
35. Saroja Thomas
36. Thiruvangadam Sinniyan
37. Rani Gopal
38. Rajangam Sokalingam
39. Jagdeo Nathujie
40. Vachilabai Jegdoo
41. Khisan Ganpat
42. Deiva Kani Pariyan
43. Murgan Thangvel
44. Rani Parameshwaran
45. Ramsingh Ripa
46. Arulprakash Ramswamy (Deleted)
47. Petvas Appai
48. Chambai Mukkan
49. Nalavati Munu Swamy
50. Laxmi Arjun (Deleted)
51. Champalal Peralaed
52. Hirabai Wachioo
53. Nalani Kuthappan
54. Thampous Swamykanu
55. Kassinath Alguingh
56. Parful Baboo
57. Rajabal Shamdnam (Deleted)
58. Thangraj Sellan
59. Thirumaran Mayvan
60. Sekar Anju
61. Periyamma Ramaswamy
62. Verraswamy Chinnathambi
63. Laxmi Parumal
64. Rajendran Periyaswamy (Deleted)
65. Periyaswamy Laxaman (Deleted)
66. Pachiyammal Nadeshan (Deleted)
67. Subramaniyan Palan (Deleted)
68. Manikkam Maliyan (Deleted)
69. Kishan Divoji
70. Kuppuswamy Mayvan (Deleted)
71. Chindamni Muniyandi (Deleted)
72. Ayyam Perumal Sellan (Deleted)
73. Arai Palani (Deleted)
74. Dhavamani Muniyan (Deleted)
75. Armugam Kuthan
76. Jagnathan Arumugam
77. Kolonji Laliyam (Deleted)

All of them are working under
The Permanent Way Inspector
(Construction) Central Railway
residing c/o Permanent Way
Inspector (Construction)
Central Railway, Jasai

(By Advocate Shri D.V. Gangal)

.... Applicants.

v/s

1. The General Manager
Central Railway, Bombay V.T.

2. The Chief Engineer (Construction)
(South), Central Railway,
Bombay VT.
3. The Executive Engineer
(Construction), Central Railway
Panvel.
4. The Divisional Manager,
Railway Manager,
Personnel Branch, Bombay,
Central Railway, Bombay VT.
5. The Permanent Way Inspector
(Construction), Central
Railway, Jasai.

(By Advocate Shri S.C. Dhavan,
Central Government Standing
Counsel)

... Respondents

ORDER

[Per: Shri B.S. Hegde, Member (J)]

Heard Shri Gangal for the applicants and Shri Dhawan for the Respondents. During the course of hearing, it is brought to our notice that the reliefs sought for in the OA 75/92 and 1177/92 are of similar nature. The issue involved in this O.A. and the other two O.As viz. 75/92 and 1177/92 are one and the same and therefore they are simultaneously disposed of and a common order is passed. The applicants in this O.A. are challenging the impugned order dated 9-12-1991 stating that the panel prepared by the Respondents is illegal and deserves to be quashed. The applicants also urged to publish the seniority list of casual labourers of the Bombay Division etc.

2. The grievance of the applicants is that the Respondents prepared a panel without publishing the seniority list of eligible candidates. It is not the case of the applicants that their names are not mentioned

in the panel but they have not been regularised for want of vacancies. The learned counsel for the applicants vehemently urged that the panel prepared by the Respondents is not in accordance with the decision of the Apex Court in Inder Pal Yadav's case and therefore requires to be quashed. However, he has not furnished any detail in what way the applicants' seniority is affected and no representation seems to have been made to competent authority after publication of the panel. On the other hand, the learned counsel for the Respondents Shri Dhawan urged that the very same panel has been agitated in OA 1233/92 which has been disposed of by the Tribunal vide order dated 17-1-1997; therefore, it is not open to the present applicants to challenge the very panel once again, thereby the principle of res-judicata would come into play. The Tribunal after hearing both the parties disposed of the O.A. stating that in the absence of material details furnished by the applicants, the Tribunal is handicapped in going into the details referred to in the O.A. thereby the O.A. is dismissed. Since the subject matter is covered by earlier decision of the Tribunal, it is not open to the applicants to re-agitate the matter once again on the same ground. Further, the names mentioned in the para 4.5 are not applicants before the Tribunal. In this O.A., they are third parties and they have no locus standi to challenge the panel prepared by the Respondents. As stated earlier, no representation of any one of the applicants. Further, the facts of this O.A. are similar to the O.A. 1233/92 disposed of by the Tribunal; therefore, there is no merit in the present O.A. and the same is required to be dismissed with

costs. It is true that the applicants have not made out any case how their seniority is affected though their names have been included in the panel. If that is so, after publication, they ought to have made suitable representation to the competent authority addressing their grievances; that is not the case here.

3. The learned counsel for the applicants submitted that the Tribunal has not adhered to the ratio laid down in Inder Pal Yadav's case, thereby the judgement by itself is an contempt of Supreme Court's orders.

In our view, the very statement of the learned counsel for the applicants itself **verges on** contempt. If he is aggrieved by the orders of the Tribunal, it is open to the applicants to go for other remedies, appeal etc. but not by making wild statement before the Tribunal. The learned counsel for the applicants is fully aware of the facts that the subject matter is already agitated ~~before~~ the Tribunal and the O.A. has been disposed of on merit and the issue involved in this case is one in which the Tribunal has already decided. Despite the same, the counsel has tenacity to urge before the Tribunal stating that the Tribunal has committed contempt; this is not to be expected from an Advocate who is arguing on behalf of the petitioners and such tendency should be curbed. Even after filing the O.A., many names mentioned in the application have been deleted and he has not furnished to the Court any details in what way the seniority of the present applicants has been overlooked by the Respondents. In the reply affidavit, the Respondents have stated that they have strictly adhered to the directions laid down in Inder Pal Yadav's case.

4. For the reasons stated above, we do not find any merit in the O.As and accordingly the O.As are dismissed with no order as to costs.

(M.R. Kolhatkar)
Member (A)

(B.S. Hegde)
Member (J)

ssp.