

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 22nd day of December, 2010

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Original Application No. 398/2008

Shyam Lal
s/o Shri Ghisya Ji
r/o Ward No.15, Subhash Colony,
Gangapurcity, Sawaimadhopur,
Distt. Sawaimadhopur

.. Applicant

(By Advocate: Shri C.L.Saini)

Versus

1. Union of India
through the General Manager,
Western Central Railway,
Jabalpur.
2. Deputy Chief Personnel Officer (Recruitment),
Railway Recruitment Wing,
Office of the General Manager,
West Central Railway,
Indira Market,
Jabalpur.

... Respondents

(By Advocate: Shri Tej Prakash Sharma)

Original Application No. 512/2008

1. Shiv Charan s/o Sugam r/o vill. Baad Talitwads,
Gangapur city, Sawaimadhopur.
2. Devi Lal s/o Shri Maanphool r/o vill. Balantpura, tehsil
Sapotara. Distt. Karoli.

3. Gulab Rabani s/o Gulam Mohamaad Near Nano Ki Mansid, Gangapur City, Swaimadhopur.
4. Gokal s/o Shivji r/o vill.Hardalpur Kerla, Sapotara, Karoli.
5. Mohammad Sali s/o Sarif Mohammad r/ P.N.24, J.P. Colony, Kota.
6. Dev Karan s/o Laxmi Chand r/o Jaisingh pura, Gangapur, Distt. Sawaimadhopur.
7. Meenuddin s/o Shri Kamruddin r/o Chuli Ki Bagichi, Tehsil Gangapur City, Distt. Sawaimadhopur.
8. Kailash s/o Shri Jairam r/o Jaisinghpura, Tehsil Gangapur City, Distt. Sawaimadhopur.
9. Dhanpal s/o Shri Ramsahai, r/o Badam Lakpur, Tehsil Gaganpur City, Sawaimadhopur.
10. Shri Kishan s/o Shri ~~sughand~~ r/o Jaisinghpura, Tehsil Gangapur City, Sawaimadhopur.
11. Mohammad Anwar s/o Noor Mohammad r/o Shayamdas Ke Balaji Ke ~~pass~~, Tehsil Gangapur City, Distt. Sawaimadhopur
12. Mannphol s/o Runglal r/o Balwanpura, Tehsil Sapotara, Distt. Karoli.
13. Guru Dayal s/o Badri r/o Balwantpura, Tehsil Sapotara, Distt. Karoli.
14. Ram Prasad s/o Mishra Nand r/o Balwantpura Tehsil Sapotara, Distt. Karoli.
15. Ramdhan s/o Shri Hardev r/o Balwantpura, tehsil Sapotara, Distt. Karoli.
16. Harilal s/o Ramjilal r/o vill. Kandip. Tehsil Gangapur City, Distt. Sawaimadhopur.
17. Ram Prakash s/o Babu Singh r/o Radh Kishan Mandir Ke pass, tehsil Gangapur city, Distt. Sawaimadhopur
18. Ramdhan s/o Ramjilal r/o Village Khandip, Tehsil Gangapur City, Sawaimadhopur.
19. Ram Swaroop s/o Surjan r/o Edalpur, Sapotara, Distt.Karoli

42/

20. Radhey Singh s/o Raghunath Singh, r/o Dalpur, Sapotara, Khedla, Distt. Karoli.
21. Bharosi s/o Shri Dhodaya, r/o Vill. Balwantpura, Tehsil, Sapotara, Distt. Karoli.
22. Sahid Khan s/o Salman Khan, r/o vill. Mahu Kala, Tehsil Gangapur City, Sawaimadhopur.
23. Hari Prasad s/o Manik Lal r/o Mahu Kala, Tehsil Gangapur City, Sawaimadhopur.
24. Kailash s/o Mangla, r/o Edualpur, Tehsil Sapotara, Karoli.
25. Samuddin s/o Juma Khan r/o Vill. Chamanpura, Tehsil Gangapur City, Sawaimadhopur.
26. Murari s/o Tondya r/o Edalr, distt. Karoli.
27. Om Prakash s/o Narayan Prasad r/o Sunar Gali Musti Pada, Bayana, Distt. Bharatpur.
28. Mudiya s/o Manphool r/o Baadmalikpur, tehsil Gangapur City, Sawaimadhopur.
29. Prabhu Dayal s/o Jaggantal Gujjar, vill. Baadmalikpur, Tehsil Gangapur City, Sawaimadhopur.
30. Dilip Kumar s/o Manik Lal r/o Baadmalikpur, Tehsil Gangapur City, Distt. Sawaimadhopur.
31. Ratan Lal s/o Sharia, vill. Baadmalikpur. Tehsil Gangapur City, Sawaimadhopur.
32. Neelkhant s/o Shri Ram Dayal, r/o Lakheri, Tehsil Keshvrai Patan, Bundi.
33. Mathuraya s/o Shri Arjun r/o Manda Gurjar, Naroli, Tehsil Sapotara, Karoli.
34. Sita Ram s/o Kanji Gurjar r/o Tattwada, Tehsil Gangapur City, Sawaimadhopur.
35. Manulal Gurjar s/o Kaanji Gurjar, r/o Village Tattwada, Teh. Gangapur City, Distt. Sawaimadhopur.
36. Guman Singh s/o Kesar Singh, r/o Village Chandkheri Post, Sogaria Maansur.
37. Harkesh Gurjar s/o Shri Ranglal, r/o Thikaria, Post Binjari, Tehsil Barwas, Sawaimadhopur.

38. Abdul Sattar s/o Nannu Khan, r/o Chulli Ku Bagichi, Tehsil Gangapur City, Distt. Sawaimadhopur.
39. Abdul Wahid s/o Abdul Razak r/o Shahed Post Paach Pahada, Distt. Jhalawad.
40. Jagdish s/o Sukharam, r/o Dhanawali Tehsil Hindon, Karoli.
41. Shree Kishan s/o Tundaya, r/o Vill. Balantpura, Tehsil Sapotara, Karoli.
42. Dipak Chand Tiwari s/o Ramniklal r/o Chuli Gate, Nasima Ka Rasta, Medhi Ki Kohti Se Samena, Gangapur City, Sawaimadhopur.
43. Rajju s/o Mangya, r/o Madina Masjid, Chuli Darwaja, Sawaimadhopur.
44. Islamudin s/o Ramjan Khan r/o Bahukala, Ekta colony, Gangapur City, Sawaimadhopur.
45. Bacchu Singh s/o Hari Singh, r/o Mahu Khurd, Tehsil Gangapur City, Sawaimadhopur.
46. Amin s/o Baatu, r/o Logo Masjid, Tehsil Gangapur City, Sawaimadhopur.
47. Rameshwar Lal Gurjar s/o Prabhulal Gurjar r/o Post Mahukala, Amit Colony, Gangapur City, Sawaimadhopur.
48. Nathu Lal s/o Mool Chand r/o Mahukala, Gangapur City, Sawaimadhopur.
49. Akhtar Ali s/o Hossain, r/o Kirpada Masjid Ke Pas, Gangapur City, Sawaimadhopur.
50. Shahid Ali s/o Samjad Ali r/o Nasia colony, Gangapur City, Sawaimadhopur.
51. Puram s/o Narayan r/o Hasanpura-A, N.B.C. Jaipur.
52. Shree Devilal s/o Bhoya, r/o Gram Bhchlai Gangapur City, Sawaimadhopur.
53. Ramphool s/o Onkar Bairwa, r/o Gram Bhchlai Gangapur City, Sawaimadhopur.
54. Prasadi s/o Chotelal, r/o Gram Buchlai Gangapur City, Sawaimadhopur.

55. Chiranji Lal s/o Rambal Mali, r/o Vill. Gajrajpal Badoda, Tehsil Sapotara, Karoli.
56. Ramjilal s/o Kapodaya, r/o Gajrajpal Baroda, Tehsil Sapotara, Karoli.
57. Ramjit s/o Mohanlal, r/o Vill Sokado, Distt. Madhopur.
58. Kanha s/o Kajod, r/o vill. Badoda Gajrajpal, tehsil Sapotara, Karoli.
59. Kamal Singh Gurjar s/o Sukhji Gurjar r/o village Lodha, Tehsil Nadoti, Distt. Karoli.
60. Rajendra Prasad Sharma s/o Shri Ramjilal Sharma, r/o Hindon City, Karoli.
61. Babulal Gurjar s/o Ratanlal Gurjar, r/o Karoli Road, Saloda, Gangapur City, Sawaimadhopur.
62. Basanta s/o Gokulram, r/o Vill. Balwantpura, Tehsil Sapotara, Karoli.
63. Babu Lal s/o Bishnaya, r/o Subhash Colony, Gangpur City, Sawaimadhopur.
64. Kanchan s/o Ghisaya, r/o Hedulpur, tehsil Sapotara, Distt. Karoli.
65. Sabanllal s/o Ram Charan, r/o Nasia Colony, Shastri Nagar, Gangapur City, Sawaimadhopur.
66. Surgyan Gurjar s/o Chiranji Lal, r/o Bau Tattwara, Narayan pur, Tehsil Sapotara, Sawaimadhopur.
67. Rambabu s/o Shri Khayali Ram, r/o T-571, Gangapur City, Sawaimadhopur.
68. Ramdhan s/o Shri Kishore Mali, Gram Vanderpura, Tehsil Gangapur City, Distt. Sawaimadhopur.
69. Battilal Mali s/o Ram Sahai Mali, r/o Banderpura, post Mahukala, Tehsil Gangapur City, Sawaimadhopur.
70. Shiv Charan Lodha s/o Gori Shankar, r/o Ward No.5, Moth Mirjapur, Gangapur City, Sawaimadhopur.
71. Ramroop Mali s/o Dhondaya r/o Mahukala, tehsil Gangapur city, Sawaimadhopur.

.. Applicants

(By Advocate: Shri C.L.Saini)

Versus

1. Union of India
through the General Manager,
Western Central Railway,
Jabalpur.
2. Deputy Chief Personnel Officer
(Recruitment), Railway Recruitment Wing,
Office of the General Manager,
West Central Railway,
Indira Market,
Jabalpur.

... Respondents

(By Advocate: Shri Anupam Agarwal)

Original Application No. 12/2009

1. Mangal s/o sanmu r/o Bijali Ghar Ke Pass, Gangapur City,
Distt. Sawaimadhopur.
2. Ashok B s/o Mandal r/o Harijan Basti, Gangapur City,
Sawaimadhopur.
3. Surgyan s/o Harji, r/o vill Manda, Tehsil Sapotara, Karoli.
4. Sher Singh s/o Gariba, r/o Umari Tehsil Gangapur City,
Sawaimadhopur.
5. Rajvir Singh s/o Dhrampal Singh, r/o Q.T/52, Railway
Colony, Gangapur City, Sawaimadhopur.
6. Sher Singh s/o Bhagwan Singh, r/o Nasia Colony, PMT
Quarter, Gangapurcity, Sawaimadhopur
7. Nawal Singh s/o Bhagwan Singh r/o Nasia Colony, PMT
Quarters Gangapur City, Sawaimadhopur.
8. Rahise Mommad s/o Nasruddin, r/o Shastri Park ke pas,
Kipada Gangapurcity, Sawaimadhopur.
9. Shaktidan Singh s/o Prabhu Singh, r/o Nasia Colony,
Gangapurcity, Sawaimadhopur.

10. Baboodin s/o Chirmoli, r/o Gangapur City, Sawaimadhopur.
11. Prem Kumar s/o Durga Lal, r/o Kolipada, Gangapurcity, Sawaimadhopur.
12. Badari s/o Surgyan, r/o vill. Dandha, Tehsil Sapotara, Karoli.
13. Ramprasad Yogi s/o Madho, r/o vill Dhingala, Gangapurcity, Sawaimadhopur.
14. Narayan Singh s/o Shree Dal Chand, r/o Gram Post Dhana Kaldi, Bharatpur
15. Ramesh s/o Madho r/o Nimoda, Tehsil Sapotara, Karoli.
16. Girraj s/o Badri, r/o Nimoda, Tehsil Sapotara, Karoli.
17. Gajanand s/o Kalyan, r/o Nimoda, Tehsil Sapotara, Karoli.
18. Prabhu s/o Manna, r/o Nimoda, Tehsil Sapotara, Karoli.
19. Ghanshyam Bairwa s/o Annga r/o Gam Raghuvnati Post Station, Sawaimadhopur.
20. Asharam s/o Jai Narain Gurjar r/o Gram chuli, Tehsil Gangapur city, Sawaimadhopur.
21. Hargoivnd Singh s/o Puran Singh, r/o Nimoda, Tehsil Sapotara, Karoli.
22. Ram Singh s/o Bhorilal, r/o Vill. Salempur, Tehsil Gangapur City, Sawaimadhopur.
23. Jaidev s/o Hukam Singh, r/o Vill. Salempur, Tehsil Gangapur City, Sawaimadhopur.
24. Govind s/o Gulab, r/o Vill. Salempur, Tehsil Gangapur City, Sawaimadhopur.
25. Soniji Jogi s/o Badri Jogi, r/o Vill. Salempur, Tehsil Gangapur City, Sawaimadhopur.
26. Tunda Ram s/o Hukma Ram, r/o Shree Nagar, Tehsil Rupwas, Bharatpur.
27. Girraj Prasad Sharma s/o Bajrang Lal, r/o Umari, Gangapurcity, Sawaimadhopur.
28. Kailash s/o Ramphool, r/o Umari, Gangapurcity, Sawaimadhour.

29. Abdul Shahid s/o Ghisaya, r/o chuli Gate, Gangapur City, Sawaimadhopur.
30. Rafiq Hamid s/o Dina Khan, r/o Chuli Gate, Gangapurcity, Sawaimadhopur.
31. Rasid Ali s/o Mohd. Ali, r/o Kakhato Ki Bagichi, Gangapurcity, Sawaamadhopur.
32. Moh. Salim s/o Dina Kha, r/o Chuli Gate, Gangapurcity, Sawaimadhopur.
33. Islam Mohmad s/o Alladin r/o Chuli Gate, Gangapurcity, Sawaimadhopur.
34. Kailash Chand Gupta s/o Brijmohan r/o Arya Samaj, Gangapurcity, Sawaimadhopur.
35. Abdul Kadir s/o Bassi Khan, r/o Dashehra Maidan, Gangapur City, Sawaimadhopur.
36. Abduli Shakil s/o Gafar, r/o Chuli ki Bagichi, Gangapurcity, Sawaimadhopur.
37. Shiv Kumar Sharma s/o Babu Lal Sharma, r/o Hadoti Colony, Gangapurcity, Sawaimadhopur.
38. Kedar Nath Gupta s/o late Shri Kirodi Lal r/o Railway Station, Tehsil Bayana, Bharatpur.
39. Akber Ali/Shri Husan, r/o Kirpada, Gangapur City, Sawaimadhopur.
40. Abdul Sani s/o Abdul Ganni, r/o Chuli Ki Bagichi, Gangapur City, Sawaimadhopur.
41. Vijay Singh s/o Kishan Lal, r/o Jatav Basti, Gangapurcity, Sawaimadhopur.
42. Syam murari s/o Narayan Lal r/o Ambedkar Dharamshala, Gangapur city, Sawaimadhopur.
43. Moh. Aslam s/o late Basir, r/o Moh. Kajikhan Ki Masjid ke piche, Ratlam, Ujjain.
44. Asilam Khan s/o Shree Alanunur, r/o Chuli Ki Bagichi, Gangapur City, Sawaimadhopur.
45. Nathi Khan s/o Kirodi Khan r/o Gram Post Madanpur, Tehsil Bayana, Bharatpur.

46. Suresh s/o Prasadi r/o Gangapur City, Sawaimadhopur.
47. Ramdas s/o Narayan r/o Tattwara, Gangapurcity, Sawaimadhopur.
48. Om Prakash s/o Prasadi r/o Kalyanji Gate, Gangapurcity, Sawaimadhopur.
49. Ramesh Chand s/o Itwari, r/o Vill. Lapawali, tehsil Todabhim, Hindon city, Karoli.
50. Ghanshyam s/o Itwari, r/o Loko Masjid ke piche, Gangapurcity, Sawaimadhopur.
51. Lal Chand s/o Narayan, r/o r/o Vill. Nimoda Tehsil Sapotara, Karoli.
52. Babulal Mahawar s/o Kishore, Nasia Colony, Gangapurcity, Sawaimadhopur.
53. Meghraj Mahawar s/o Ramlal r/o Subhash Colony, Gangapur City, Sawaimadhopur.
54. Surya Narayan s/o Bhwarlal, r/o Subash Colony, Gangapur City, Sawaimadhopur.
55. Gheesia Lal s/o Joharia, r/o Subhash Colony, Gangapur City, Sawaimadhopur.
56. Ghanshyam Lal Mahawar s/o Kolilal r/o Nimoda, Station, waya Mahukala, Karoli.
57. Ram Gopal s/o Ratan Lal, r/o Tullapura, Tehsil Ladpura, Kota.
58. Abdul Razak s/o Ghuria, r/o Logo Colony, Gangapurcity, Sawaimadhopur.
59. Abdul Jamil s/o Bashir r/o Chuli Ki Bagichi, Gangapurcity, Sawaimadhopur.
60. Kapoor Chand s/o Ram Prasad, r/o Naya Gaav Mirjapur, Gangapur City, Sawaimadhopur.
61. Ikramuddin s/o Farid Khan r/o Dholi Khar Kahar Ghat Karoli.
62. Brijmohan s/o Mann Phool, r/o Balwantpura, Tehsil Sapotara, karoli.

63. Murari s/o Mannphool, r/o Edalpur, Tehsil Sapotara, Karoli.
64. Bhatti Lal s/o Bathya, r/o Edalpur Ki Dhani, Balwantpura, Tehsil Sapotara, Sawaimadhopur.
65. Hira Lal s/o Harphool, r/o Vill. Edalpur ki dhani, Balwantpura, Tehsil Sapotara, Sawaimadhopur.
66. Ram Gopal s/o Chiranji, r/o Edalpur Ki Dhani, Tehsil Sapotara, Sawaimadhopur.
67. Suresh Rathod s/o Kanta Prasad r/o Shastri Colony, Gangapurcity, Sawaimadhopur.
68. Devi Lal s/o Narayan r/o Gram Bagichi, Gangapurcity, Sawaimadhopur.
69. Ram Khiladi s/o Dhudiya, r/o Gram Buchlai, Gangapurcity, Sawaimadhopur.
70. Bharbal s/o Kunja, r/o Gram Buchlai, Gangapurcity, Sawaimadhopur.
71. Kedar s/o Bhawariya, r/o Nimoda, Tehsil Gangapurcity, Sawaimadhopur.
72. Kanna s/o Gangadhar r/o Vill Gordhanpura, Tehsil Sapotara, Karoli.
73. Moti s/o Aajodia, r/o Vill. Gordhanpura, Tehsil Sapotara, Karoli.
74. Om Prakash Mahawar s/o Nathulal Mahawar, R/o Baad Tatwara, Tehsil Gangapur City, Sawaimadhopur.
75. Ram Prasad s/o Kishan Lal r/o Vill Laxman Colony, Manadpur (MP).
76. Kishore s/o Nathu Harijan, r/o Railway Colony, Tehsil Garsade, Mansur (MP).
77. Fehmid Khan s/o Abdul Karim r/o Onkar Bhawan, Shyamgarh, Garoth (MP).
78. Abdul Farukh s/o Abdul Hai r/o Urdu School ke pass, Shyamgarh, Distt. Mansur (MP).
79. Ramlabai w/o Sannuji r/o Shyamgarh, Distt. Mandisor (MP)

44/

80. Shyam Lal s/o Bhuraji r/o Bhawar Colony, Shyamgarh, Mannsor (MP).
81. Shree Kishan s/o Shree Ram Prasad, r/o Tattwara, Tehsil Gangapurcity, Sawaimadhopur.
82. Mangi Lal Saini s/o Nathu Lal Saini r/o GRP Prak Ke piche, Ghyamgargh (MP).
83. Gopal s/o Kishan Lal r/o Subhash Marg, Shyamgarh, Mandisor (MP).
84. Girraj Singh s/o Bajrang Singh r/o Chuli Gate, Gangapurcity, Sawaimadhopur.
85. Deep Singh s/o Gaindilal r/o Mahukala, Gangapur City, Sawaimadhopur.
86. Ram Singh s/o Punya Lal r/o Mahu Khurd, Gangapur City, Sawaimadhopur.
87. Mangilal s/o Mul Chand r/o Mijala Mohlla, Tehsil Garot, Distt. Mansor (MP).
88. Mahesh Kumar s/o Jagdish Prasad r/o Madhuban Colony, Sogaria, Kota.
89. Jagdish s/o Jansi r/o Vill. Milakhpur, Gangapur City, Sawaimadhopur.
90. Ramesh Chand Kalal s/o Shri Narayan Kalal r/o Ghandhi Colony, Gangapur City, Sawaimadhopur.
91. Kedarlal Mali s/o Kajodia r/o Mahukala, Gangapurcity, Sawaimadhopur.
92. Ghanshyam s/o Bansi r/o Amli Station, Distt. Tonk.
93. Bhawani Shankar s/o Jyoti Rao r/o Jagner Road, Kamal Kha Agra.
94. Kishore s/o Mangilal r/o Gram Rewasi Hummirpura, Tehsil Aligarh, Distt. Tonk.
95. Ashok s/o Shri Radhe Mohan Verma, r/o Nasia Colony, Gangapur City, Sawaimadhopur.
96. Sannu s/o Prabhu r/o Malan Choal, Tehsil Malana Doongar, Sawaimadhopur.
97. Badri s/o Gokul r/o VII. Aawali Tehsil Uniyara, Distt. Tonk.

98. Mohan Lal s/o Kawrilal r/o vill. Maipura Tehsil Uniyara, Tonk.
99. Hajari s/o Sukhpal r/o Vill. Amirpura, Omli, Uniyara, Tonk.
100. Ram Bilas s/o Ramkaran r/o Dondawa, Uniyara, Tonk.
101. Geeta w/o Ramesh r/o Q.No.77-T, Railway Quarters, Tehsil Gehroth, Distt. Mandsor (MP).
102. Sumer Singh s/o Banbir Singh r/o Ashok Nagar Colony, Mahukala, Gangapur City, Sawaimadhopur.
103. Moti s/o Radhveer r/o Nasia Colony, Gangapur City, Sawaimadhopur.
104. Shyamaider Pal s/o Dhyanpal r/o Nasia Colony, Gangapur City, Sawaimadhopur.
105. Om Prakash Gurjar s/o Ram Mahal Gurjar r/o Nasia Colony, Gangapur City, Sawaimadhopur.
106. Naresh Kumar s/o Nanag Singh, r/o Nasia Colony Gangapur City, Sawaimadhopur.
107. Ramesh Chand Verma s/o Bundu Dhobi, r/o Purani Sarai, Gangapur city, Sawaimadhopur.
108. Rajender Singh s/o Bhagwan Singh r/o H.No.35, Kalashpuri, Kota Junction, Kota.
109. Bhagwan Swaroop s/o Gopal r/o Bapu colony Mandir Ke samne, Naga Chungi, Kota.
110. Kamod Lal Gurjar s/o Lathore Lal r/o Vill. Badarya, Tehsil Gangapurcity, Sawaimadhopur.
111. Rajkumar s/o Ajant Singh r/o Vill. Budaech, Post Jaisher Road, Distt. Hathrash.
112. Brijlal s/o Harati r/o Choda Gaw, Tehsil Sapotara, Karoli.
113. Smt. Madhu Bai w/o Chandmohan r/o Loco Colony, Q.No.205, Shyamgarh, Samsara, UP.
114. Prahlad s/o Dhanna r/o Bada Maholla, Gangapurcity, Sawaimadhopur.
115. Suresh s/o Bharawan r/o Bada Maholla, Gangapurcity, Sawaimadhopur.

116. Bhagwan Das s/o Kaluram, r/o Gandhi Colony, Gangapur City, Sawaimadhopur.
117. Hukam Singh s/o Jai Narayan r/o Village Bumblai, Gangapurcity, Sawaimadhopur.
118. Shahabuddin s/o Ismai r/o Udai Mand Chammanpura, Gangapur City, Sawaimadhopur.
119. Murari Singh s/o Narayan Saini r/o Gram Chawa Ki Bagichi, Tehsil Gangapurcity, Sawaimadhopur.
120. Anwar Ali s/o Kalawa Khan r/o Chulli Ki Bagachi, Gangapur Sawaimadhopur.
121. Moh. Yusub s/o Ramjani, Ramrahim Colony, Gangapur City, Sawaimadhopur.

.. Applicants

(By Advocate: Shri C.L.Saini)

Versus

1. Union of India
through the General Manager,
Western Central Railway,
Jabalpur.
2. Deputy Chief Personnel Officer
(Recruitment), Railway Recruitment Wing,
Office of the General Manager,
West Central Railway,
Indira Market,
Jabalpur.

... Respondents

(By Advocate: Shri Anupam Agarwal)

ORIGINAL APPLICATION No.414/2010

1. Iqbal Mohd. s/o Esaq Mohd.r/o Islampura, Gangapur City, Sawaimadhopur.
2. Islamuddin s/o Kale Khan r/o Carriage Colony, Gangapur City, Distl. Sawaimadhopur.
3. Abdul s/o Salani r/o Shekpada, Hindon City, Karoli.
4. Jabbar Khan s/o Shakur Khan r/o Chuli Ki Bagichi, Gangapur City, Sawaimadhopur.

5. Prahlad s/o Chhajulal r/o Jahara, Bawanbass, Sawaimadhopur.
6. Om Prakash s/o Kishanlal r/o Khanapura, Tehsil Gangapur City, Sawaimadhopur.
7. Nawab Khan s/o Chirmoli r/o Nasima Colony, Gangapurcity, Sawaimadhopur.
8. Heeralal/o Mannphool r/o Gram Tunda, Tehsil Sapotara, Karoli.
9. Babboddin s/o Allarnoor, r/o Bamanwar, Distt. Sawaimadhopur.
10. Maheshchand s/o Gangadhar r/o Mahukala, Tehsil Gangapur City, Sawaimadhopur.
11. Abdul Aziz a/o Bundoo Khan, r/o Chuli Ki Bagichi, Gangapur City, Sawaimadhopur.
12. Niranjan Lal s/o Ramesh Chand r/o Mahu, Tehsil Bair, Bharatpur.
13. Burruddin s/o Ramjjan r/o Chuli Ki Bagichi, Gangapurcity, Sawaimadhopur.
14. Ramji Lal s/o Inderraj Meena r/o Kherla Ki Jhopdi, Tehsil Sapotara, Karoli.
15. Shankar Lal s/o Sugan r/p Chaba Ki Bagichi, Gangapur City, Sawaimadhopur.
16. Nand Raj Sharma s/o Satyanarayan r/o Babolia Bhawan, Gangapur City, Sawaimadhopur.
17. Giriraj s/o Nanda r/o Buchlai, Gangapurcity, Sawaimadhopur.
18. Rajjuddin s/o Sultan Ahmed, r/o Kirpada, Gangapur City, Sawaimadhopur.
19. Pappu s/o Ramjilal r/o ward No.9, Gangapur city, Sawaimadhopur.
20. Harnarayan s/o Khanna r/o Buchlai Tehsil Gangapurcity, sawaimadhopur.

40/

21. Govind Lal s/o Khanaya Lal r/o Gurunanak Road, Gangapur City, Sawaimadhopur.
22. Ramcharan s/o Shri Inderraj r/o Kherla Ki Jhopdi, Tehsil Sapotara, Karoli.
23. Prathwi Raj s/o Shri Kalyan r/o Mirjapur, Tehsil Gangapur City, Sawaimadhopur.
24. Rajender Singh Dua s/o Hanraj Dua r/o Mahukala, Gangapur City, Sawaimadhopur.
25. Girraj Prasad Gurjar s/o Prasadi Lal Gurjar, r/o Gangapurcity, Sawaimadhopur.
26. Kamruddum s/o Jumma Khan r/o Hasanpura, Jaipur.
27. Farook Ali s/o Bundu Khan r/o Chuli Ki Bagichi, Gangapur city, Sawaimadhopur.
28. Saggir Mohmmad s/o Roshal Lal r/o Chuli Ki Bagichi, Sawaimadhopur.
29. Vijay Kumar s/o Amar Chand r/o Mahukala, Gangapurcity, Sawaimadhopur.
30. Kamaluddin s/o Alladin r/o Badi Udai, Gangapurcity, Sawaimadhopur.
31. Nattilal Khuswah s/o Bhola Ram r/o Veupura, Tehsil Kheragarh, Agra (UP).
32. Mukat Singh s/o Gangadhar r/o Chohra, Mahukala, Gangapurcity, Sawaimadhopur.
33. Abdul Habib s/o Akbar Khan r/o Carriage Colony, Mahukala, Gangapurcity, Sawaimadhopur.
34. Bahoo Lal s/o Khannya Lal r/o Railway Station, Lakheri, Bundi.
35. Ganga Sahay s/o Ram Prasad r/o Chuli Gate, Gangapurcirt, Sawaimadhopur.

.. Applicants

(By Advocate: Shri C.L.Saini)

Versus

1. Union of India Through General Manager,

Central Western Railway,
Jabalpur (M.P.)

2. Deputy Chief Personnel Officer (Recruitment),
Railway Recruitment Wing,
Office of General Manager,
Western Railway,
Indira Market,
Jabalpur (M.P.)

.. Respondents

(By Advocate:-....)

ORIGINAL APPLICATION No.415/2010

1. Ganga Sahay s/o Kishan Lal r/o Khanpu, Tehsil Gangapur City, Sawaimadhopur.
2. Rambhariso Bairwa s/o Susaram Bairwa, r/o Sanjay Colony, Tehsil Gangapur City, Sawaimadhopur.
3. Rajaram s/o Bajrang Lal r/o Gram Nomalya, Tehsil Gangapur City, Sawaimadhopur.
4. Gopal Sharan Sharma s/o Shri Ramsahay Sharma r/o Near Police Station Gungar, Tehsil Gangapur City, Sawaimadhopur.
5. Omprakash s/o Jagram r/o Ward No.13, Gautam nagar, Ajmer
6. Hari Singh s/o Bhawani Shankar r/o Bhuwani Mandi Station, Jhalawad.
7. Brijraj s/o Shri Ramswaroop r/o Staff Road, Modak Station, Kota.
8. Morpal s/o Manusukh r/o Gram Ladpura, Post Khanjana, Gungar Teh. Sawaimadhopur.
9. Naseem Ahmed s/o Naim Ahmed r/o Gali No.2, Sanjay Nagar, Kota.
10. Yashwant Singh Rajawat s/o Brijmohan Singh Rajawat r/o Punam Colony, Kota Junction, Kota.
11. Kailash Chand s/o Ramnath r/o Richodona Distt, Sawaimadhopur.



12. Moinuddin s/o Mumtaz M. r/o JP Colony, Rangpur Road, Kota.
13. Ranjeet Singh s/o Mohan Singh r/o Tulappura, Kota Junction, Kota.
14. Gopal s/o Kishan Lal r/o Gaav Udai, Gangapur City, Sawaimadhopur.
15. Radhakishan s/o Shri Ramdev r/o behind Railway Station, Ward No.19, Tehsil Gangapur City, Sawaimadhopur.
16. Om Prakash Sharma s/o Shri Madholal Sharma r/o Tilak Bazar, Tehsil Gangapur city, Sawaimadhopur.
17. Chotulal s/o Gyarsi Lal Bairwa r/o Gram Jinapur, Tehsil Gangapur City, Sawaimadhopur.
18. Naney s/o Nadan r/o Bhind Colo Mazid Ward 24, Tehsil Gangapur City, Sawaimadhopur.
19. Mahender Singh Bhati s/o Gangaram Bhati, r/o JP Colony, Rangpur Road, Kota Junction.
20. Afraj Mohd s/o Abdul Latif r/o Chalis Quarter, Ekta Colony, Tehsil Gangapurcity, Sawaimadhopur.
21. Abdul Kalam s/o Abdul Salam w/o Chalis Quarter, Ekta Colony, Tehsil Gangapurcity, Sawaimadhopur.
22. Lalooram Sharma s/o Shri Moolchand Sharma r/o Gram Kadi Palli Post Talawada, Tehsil Gangapur City, Sawaimadhopur.

.. Applicants

(By Advocate L Shri C.L.Saini)

Versus

1. Union of India through General Manager,
Central Western Railway,
Jabalpur (M.P.)
2. Deputy Chief Personnel Officer (Recruitment),
Railway Recruitment Wing,
Office of General Manager,
Western Railway,
Indira Market,
Jabalpur (M.P.)

.. Respondents

(By Advocate:)

ORIGINAL APPLICATION No 460/2010

1. Raghuveer Singh s/o Sardar Singh r/o Kachipura, Mungawali, Tehsil Mungawali, Ashok Nagar, Distt. Guna.
2. Shyam Koli s/o Shri Ghisyaji r/o Ward No.15, Subhash Colony, Gangapurcity, Sawaimadhopur.

.. Applicants

(By Advocate: Shri C.L.Saini)

Verus

1. Union of India through General Manager, Central Western Railway, Jabalpur (M.P.)
2. Deputy Chief Personnel Officer (Recruitment), Railway Recruitment Wing, Office of General Manager, Western Railway, Indira Market, Jabalpur.
3. Divisional Railway Manager, Western Central Railway, Division Office, Near Railway Station, Kota, Rajasthan

.. Respondents

(By Advocate:.....)

ORDER

Per Mr. M.L.Chauhan, Member (J)

By this order, we propose to dispose of these OAs as grievance of the applicants is that instead of filling up the post of Group-D as advertised vide Ann.A/1 by direct recruitment, the same should be filled in in terms of the policy decision dated 21.10.2003. It may be stated that out of six cases, in three OAs i.e. OA Nos. 414/2010, 415/2010 and 460/2010, no notice has been issued by this Tribunal and when these matters were listed for admission, this Tribunal has passed the following order:

lv

"OA No.414/2010

None present for the applicants.

The applicants [35 in number] have filed this OA against the advertisement dated 19.1.2008 (Ann.A/1), whereby the respondents took steps for filling up 3168 vacancies of various Group-D categories on direct recruitment basis. It is the case of the applicants that in terms of the policy decision taken by the respondents vide order dated 21.10.2003 (Ann.A/5), the applicants have a preferential right to be appointed against the said posts and it is only thereafter that the respondents could have resorted to fill-up the aforesaid posts on regular basis. The applicants have also annexed a document (Ann.A/6), perusal of which reveals that some of the applicants were engaged in the year 1973, 1977 & 1979, whereas some of them were engaged after 1.1.1981. As per the policy decision, the casual labourers who were disengaged before 1.1.1981 and have not been re-engaged thereafter, their names have to be deleted from the live register. Similarly the casual labourers appointed after 1.1.1981, their names have to be brought in the casual list at the moment they are discharged from employment.

In the present case, the applicants have not given the particulars regarding working and the date of their discharge from employment.

Accordingly, the applicants are directed to give full particulars in order to decide the issue whether their names could have been brought in the live register so as to consider their cases for absorption against Group-D posts in terms of the policy decision dated 21.10.2003 (Ann.A/5) even if, for arguments sake, such policy decision is attracted.

Let the needful be done within a period of two weeks. List on 28.9.2010."

2. Thereafter the learned counsel for the applicants has filed affidavit in terms of the observations made above thereby enclosing list regarding period of employment of the applicants, total working days and the posts. Perusal of the lists annexed with OA No.414/2010 reveals that out of 35 casual labourers only 4 have

worked for more than 120 days whereas 31 applicants have worked less than 120 days and even some of them less than one month. It may also be relevant to mention here that majority of the casual labourers have been dis-engaged between 20.9.1978 to 30th June, 1991 and they are not working in the said capacity for more than two decades. Similarly in OA No.415/2010, out of 22 applicants only 3 have worked for 120 days and out of three persons two have not worked since 4.12.1972 and 13.11.1976, as such, their names could not have been kept on the live register. Only one person namely Shri Yaswant Singh Rajawat has worked for 240 days w.e.f. 1.4.1984 to 30.6.1991. Similarly, in OA No.460/2010 the applicant No.1 has worked for a period of less than 90 days whereas applicant No.2 has worked for 36 days in the year 1980 and 57 days in 1981, 33 days in 1985 and 32 days in 1986. Thus from the material placed on record, it is also evident that persons who worked for more than 120 days as stated above, were in employment for more than one year and it is neither pleaded nor it can be inferred that the applicants have continuously worked for more than 120 days in a particular year so as to treat them as temporary in terms of circular dated 8.6.1981 and thereby bring their names in live/supplementary live register in terms of the policy decision of the Railway Board.

3. In OA No.512/2009, although notices were issued to the respondents but the respondents have not filed reply and have moved an applicant for better particulars. It is further asserted that the applicants have been dis-engaged since long and as such after three decades of their dis-engagement, their stale claim for

u/.

not to fill up Group-D posts from open market in terms of advertisement, cannot be entertained.

4. However in OA No.398/2008, the respondents have filed reply. In the reply, the stand taken by the respondents is that no live register as alleged by the applicant is available in Kota Division for the casual labourers. Since appointment of casual labourers was banned by the General Manager and no appointment can be given without approval of the General Manager, therefore, the casual labour, if any appointed after 14.7.1981 without the approval of the General Manager is not having any right for absorption in Group-D category in the Indian railways. The respondents have further stated that the applicant has not filed any cogent/sufficient and adequate documents in his support as regard the appointment of casual labour and these documents filed by the applicant is not indicating the appointment of the applicant. The statement prepared by the labour Unions thereby indicating particulars regarding date of appointment and number of days the casual labour has worked in respect of Kota Division Ann.A/6 containing names of 281 workers is not indicating appointment of the applicant. It is specifically pleaded that it is not clear from the documents that the applicant has completed 120 days without any break. The days of working shown in the card is related with the Construction Unit where he worked only for 32-33 days which was also not covered under the policy framed by the Railway Board for absorption of Group-D category. In para 5(D) the respondents have categorically stated that no casual labour is waiting for

46

regularization at West Central Railway and all the Casual Labours have been regularized under the scheme of de-casualisation.

5. The applicants have filed rejoinder thereby reiterating the submissions made in the OA.

6. When the matter was listed on 9.12.2010, the learned counsel for the applicant submitted that all these OAs can be disposed of on the basis of the reply filed by the respondents in OA No.398/2008, Shyam Lal vs. Union of India, as such, all these OAs have been taken up for hearing, even though in some of cases notices have not been issued by this Tribunal and where notices were issued reply could not be filed by the respondents on account of better particular of the applicants.

7. We have heard the learned counsel for the parties and gone through the material placed on record.

8. As already stated above, grievance of the applicants is regarding the advertisement dated 19.1.2008 whereby the respondents have resorted to direct recruitment of 3168 vacancies of Group-D category i.e. Traffic porter, Trackman, Helper and Safaiwala etc. The case of the applicants is that they are entitled to regularization in terms of policy dated 21.10.2003 (Ann.A/5). The basis for their absorption in terms of the aforesaid policy decision is that they have been engaged by the railway department and they have also been issued casual labour cards, as such, they are entitled to be absorbed against Group-D posts irrespective of the fact whether they have worked for few days or not. It is further argued that in case casual labours have not been brought in the

live/supplementary live register, it is fault of the department and this fact cannot preclude them from seeking absorption against Group-D post. Before the contention so raised by the learned counsel for the applicant is considered, it will be useful to quote relevant portion of the policy decision dated 21.10.2003 issued by the Railway Board, which deal with open market recruitment in Group-D category and thus reads:-

"Sub: Open market recruitment in Group-D category.

.....

Pursuant to a demand raised in PREM meeting by the staff side. The matter has since been revlieved by the Board and it has been decided that the Railways need not take prior approval of the Board while placing indents before the RRBs. However before resorting to open market recruitment it should be ensured that the following conditions are fulfilled:-

1. The recruitment should have the personal approval of the General Manager.
2. Such recruitment should be resorted to only after exhausting the possibility of absorbing:-
 - (a) Surplus staff available for redeployment;
 - (b) Casual Labour on Roll
 - (c) Ex-Casual Labour on Live Registers and Supplementary Live Register
3. It is further clarified that General Managers are competent to fill up the backlog of prescribed intake, which could not be filled up due to various reasons from August 2000 i.e. the date when the order of Rightsizing was issued excluding compassionate ground appointments. In this regards order of 1.0%/0.5% on intake stand modified in terms of Board's letter No.E(MPP)/2002/1/83 dated 17.1.2003...."

The learned counsel for the applicants submits that the applicants are covered under clause 2(c) i.e. ex-casual labour on live Registers and Supplementary Live Registers as admittedly neither the applicants are surplus staff nor casual labour on roll.

9. We have given due consideration to the submissions made by the learned counsel for the applicants. Admittedly, majority of applicants have worked for few days. As can be seen from the stand taken by the respondents in the reply, they have categorically stated that name of applicants have never been brought either in live or supplementary live register. From the material placed on record, it is also evident that some of the applicants were dis-engaged in the year 1980, 1981 and as far back in the year 1972, 1974 and 1981. None of the applicant has made any grievance regarding inclusion of their name in the live register and supplementary live register in terms of Railway Board instructions dated 28.8.1987 based upon the railway Board decision dated 25.4.1986. Thus, according to us, the applicants cannot take any assistance from the policy decision dated 21.10.2003 as admittedly, their names were not brought in the live register/supplementary live register. The aforesaid policy decision would have been attracted if name of the applicants find mention in the live/supplementary live register and it was under this contingency that the said policy decision stipulates that before resorting to open market recruitment, the recruitment of the categories mentioned therein should be resorted to with the approval of the General Manager.

48

10. The matter on this point is no longer res-integra. The instructions of the Railway Board dated 28.8.1987 and 25.4.1986 were considered by the Full Bench of the Tribunal in the case of Mahabir and Ors. vs. Union of India and Ors., 2000 (3) AJT 1. What necessitated the department to issue these instructions has been considered at length in this judgment. At this stage, it will be useful to quote the relevant portion of para 1 of the judgment, which thus reads:-

"Railways, it appears, are required to undertake in addition to regular works, works on emergent basis or of temporary nature. For executing such works, casual labours are employed. Their services are dispensed with the moment the work at hand is completed. Casual labourers are available plenty whereas employment for them is comparatively scanty. In the circumstances, there is a scramble of labourers seeking employment. Righteous officials occupying high positions in the railways who have had a desire to accommodate and offer employment to such casual labourers have devised modalities in order to provide relief by giving employment to such casual labourers. We are in the instant applications concerned with one such policy decision which is reflected in a circular issued by the General Manager, Northern Railway on 28.8.1987 which has been the subject matter of a rather long debate on the part of the learned counsel appearing for the contending parties. It may, in the circumstances, be useful to have a look at the said circular. The same is on a decision of the Railway Board dated 25.4.1986. Based on the decision of the Railway Board, aforesaid circular inter alia provides that names of casual labourers who were discharged at any time after 1.1.1981 on completion of work or for want of further productive work, should be continued to be borne on the live casual labour registers and if the names of certain such casual labourers have been deleted due to earlier instructions, those should be restored on the live casual registers. The circular reiterated that those casual labourers discharged prior to 1.1.1981 and who have not worked for two years, their names should be deleted except such casual labourers who have made special representations in terms of PS Nos. 9191 and 9195 (to be executed upto 31.3.1987) and considered

eligible further all casual labourers discharged after 1.1.1981, their names are to be continued on the live casual register indefinitely. The circular further provides that if any requirement of casual labourers in the seniority unit arises, the same is to be met with by re-engaging casual labourers from the register of that seniority unit in order of seniority retrenched on completion of work, does not accept the offer made to him or does not turn up to work when ordered on availability of fresh work he loses the benefit of previous spell of his employment as casual labour. The circular goes on to mandate that the controlling officers/senior gazetted officers of each seniority unit are required to ensure that such live casual labour registers are maintained by the concerned staff and surprise checks should be organized and action should be taken against the defaulting staff. These registers must be reviewed once a quarter. The circular concludes by directing the instructions to be brought to the notice of all concerned dealing with casual labour, particularly senior subordinates and Assistant Officers and ensure that suitable checks and monitoring is made to ensure that these live casual labour registers are carefully maintained, updated and utilized for purposes of re-engagement of casual labour...."

In para 2 the Full Bench has made the following observations:-

"Aforesaid circular, it is apparent makes an effort to offer employment to casual labours on certain rational basis. The same seeks to do justice to casual labourers by offering them employment. Whereas casual labourers are available aplenty, jobs for them are scarce. Casual labourers who have been placed on the casual labour registers have outnumbered the normal requirement for such works which are ordinarily or normally undertaken by railway. Aforesaid circular, therefore, seeks to curtail the number of casual labourers from the registers who are less deserving on account of their having been employed prior to the aforesaid cut-off date, namely 1.1.1981 and who have not been employed thereafter for a considerable time. At the time, it seeks to offer employment to as many casual labourers and absorb them against regular vacancies, as far as the same is possible, on their fulfilling the prescribed criteria/norms."

The fact of delay in approaching the Tribunal vis-à-vis crucial phrases in the circular dated 28.8.1987 to the following effect: "...all casual labour discharged after 1.1.81 their names are to be continued on the live casual labour register indefinitely" was also considered by the Full Bench and in Para 11 has made the following observations:-

"11. Aforesaid circular, in our judgment confers a right on casual labour to be placed on the live casual labour register. The said right arises the moment the casual labour is discharged. The said right is conferred on such casual labour who have discharged after 1.1.1981. Hence, the moment a casual labour is discharged, a right to be placed on the register arises. To give an example, in respect of casual labour who have been discharged say on 1.1.1982, the right to be placed on the register arises as on that date. The casual labour no doubt has a right to be continued on the live casual labour register indefinitely. However, before that right of being continued on the register indefinitely can arise, the right to be placed on the register in the first instance has to be asserted. The cause of action asserting the said right arises on 1.1.1982 when the casual labour is discharged. This is amply clear from the aforesaid recital to be found in the circular. Circular no doubt casts an obligation on the part of the administration to maintain the registers continuously. That, however, does not mean that the same confers a continuing right on the part of the casual labour to be placed on the register in the first instance. If the right which has accrued in his favour on 1.1.1982 is denied to him, he has to taken recourse to approach this Tribunal within the time prescribed by Section 21 of the Administrative Tribunals Act, 1985. He cannot wait for time immemorial and approach the Tribunal at leisure and, at his whim and fancies, may be years later and assert his right of being placed on the register." (emphasis supplied to the underline)

Thus, as can be seen from para-11 as reproduced above, the Full Bench has held that right of the casual labour to be included in the live register arises the moment casual labour is discharged. Before that right of being continued on the register

indefinitely in terms of circular dated 28.8.1987 arises, the right to be placed on the register for the first instance has to be asserted and if such right is not asserted at the relevant time within the time prescribed by Section 21 of the Administrative Tribunals Act, such casual labour cannot wait for time immemorial and approach the Tribunal at leisure and at his whim and fancies, may be years later and assert his right of being placed on the register. The ratio laid down by the Full Bench in para 11 is fully attracted in the instant case. In the instant case, admittedly the name of applicants have not been included in the live register/supplementary live register. Here some of the casual labours are asserting their rights for being absorbed in Group-D posts after more than two decades and some of them were dis-engaged in the year 1972 and are approaching this Tribunal after a lapse of about 30 years. As such, the claim of the applicants cannot be entertained at this stage. As already stated above, the benefit of the circular is available to those ex-casual labours whose names find mention in live register and supplementary live register. Since name of applicants do not find mention in the live/supplementary live register, as such, the benefit of policy decision dated 21.10.2003 (Ann.A/5) cannot be extended to the applicants. Further, it is not case of the applicants that their names be brought in the live casual labour register/supplementary live register. As such, we are also not required to go into this question at this stage without their being any specific pleading to this effect.

4/2

11. The contention of the learned counsel for the applicant that once the department has issued casual labour card and the casual labours are discharged, it is the duty of the respondents to maintain live register and supplementary live register and to include their names in such register without asserting their right, cannot be accepted in view of the finding given by the Full Bench in para 11 (supra).

12. Further, the Full Bench of the Delhi High Court in the case of Jagdish Prasad vs. Union of India and Ors, 2003 (1) SLJ 407 has held that non inclusion of name in terms of circular dated 28.8.1987 is not a continuous cause of action relying upon the decision of the Constitution Bench of the Apex Court in the case of S.S.Rathore vs. State of M.P. AIR 1990 SC 10 and another decision of the Apex Court in Ratan Chand Sammanta and ors. vs. UOI, JT 1993 (2) SC 418. In the case before the full bench the petitioner filed a representation on or about 24th September, 1987 for placing his name on the casual live register in terms of circular dated 28.8.1987. He did not carry the matter further and made further representation only on or about 20th May, 1998 for placing his name in the said register. It was held that cause of action would not be continuous one on the basis of representation dated 24th September, 1987. The further representation made on 20th May, 1998 after a lapse of 11 years was rejected on the ground of limitation. It may be stated that casual labour card was issued to the casual labour at the time of their engagement and casual labour cards are different than the

by

entry to be made in the live casual labour register in pursuance of Railway Board order RBE 82 of 1986 dated 25.4.1986 as circulated vide letter dated 28.8.1987.

13. Yet for another reason, the applicants are not entitled to any relief in view of the Constitution Bench decision of the Apex Court in the case of State of Karnataka vs. Uma Devi, 2006 SCC (L&S) 753. In that case the Apex Court held that appointments made without following the due process or the rules relating to appointment did not confer any right on the appointees and courts cannot direct their absorption, regularization or re-engagement nor make their service permanent, and the High Court in exercise of jurisdiction under Article 226 of the Constitution should not ordinarily issue directions for absorption, regularization or permanent continuance unless the recruitment had been done in a regular manner, in terms of the constitutional scheme, and that the courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities, nor lend themselves to be instruments to facilitate the bypassing of the constitutional and statutory mandates. This Court further held that a temporary contractual, casual or a daily-wage employee does not have a legal right to be made permanent unless he had been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. The Apex Court further made an exception to the above position in para 53 that where the employee has worked for 10 years or more in duly sanctioned post without the benefit of protection of any interim order of the court or

§

tribunal and the appointment of such employee are not illegal even if irregular service of such employee can be regularized as one time measure. However, the Apex Court has categorically held that where appointments are made or continued against sanctioned post or where the person appointed does not possess the prescribed minimum qualification, the appointment will be considered to be illegal. Admittedly, the applicants do not fall within the exception as laid down by the Apex Court in Uma Devi's case (supra). Thus, we see no infirmity in the action of the respondents, whereby the respondents have resorted to filling up of Group-D posts from direct recruitment from open market in terms of constitutional scheme and in accordance with the statutory provisions. Even on this account, the applicants cannot take any assistance from the policy decision which was issued prior to the decision of the Apex Court in the case of Uma Devi (supra) rendered on 10.4.2006.

13. That apart, any policy decision taken contrary to the statutory provisions dehors the rules is not permissible in law as held Apex Court in the case of State of U.P. Vs. Deshraj, 2007(1) SCC (L&S) 163. This view taken by the Apex Court was further followed by the Apex Court in number of decisions. At this stage, it will be useful to quote para 20 of the case in Nagar Mahapalika, Kanpur vs. Vibha Shukla and ors. (2010) 1 SCC (L&S) 698, which thus reads:-

"20. Furthermore, it is trite that regularization is not a mode of appointment. It has been so held by a Constitution Bench of this Court in, State of Karnataka v. Umadevi. The principle enunciated by the Constitution Bench of this Court of this Court in Umadevi

has inter alia been applied by this Court in Post Master General v. Tutu Das (Dutta) [(2007) 2 SCC (L&S) 179] stating as under:-

"12. What was considered to be permissible at a given point of time keeping in view the decisions of this Court which had then been operating in the field, does no longer hold good. Indisputably, the situation has completely changed in view of a large number of decisions rendered by this Court in last 15 years or so. It was felt that no appointment should be made contrary to the statutory provisions governing recruitment or the rules framed in that behalf under a statute or the proviso appended to Article 209 of the Constitution of India.

13. Equality clause contained in Article 14 and 16 of the Constitution of India must be given primacy. No policy decision can be taken in terms of Article 77 or Article 162 of the Constitution of India which would run contrary to the constitutional or statutory schemes."

14. It appears that in view of the law laid down by the Apex Court, as noticed above, the respondents have taken policy decision to fill up various posts of Group-D by way of advertisement instead of resorting to its old policy decision dated 21.10.2003 (Ann.A/5) in conformity with the constitutional scheme and we see no infirmity in such action.

15. Accordingly, these OAs are bereft of merit, which are accordingly dismissed with no order as to costs.

16. In view of dismissal of the OAs, no order is required to be passed in MA No.72/2009 (OA No.12/2009) and MA No.73/2009 (OA No.512/2009) which shall stand disposed of accordingly.

(ANIL KUMAR)
Admv. Member

(M.L. MAHAJAN)
Judl. Member

R/

दिनांक 16/11/17 के आदेशानुसार मेरी
उपास्थिति में दिनांक 19/11/17 को
को भाग-II ब 111 नष्ट किये गये।

Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, JAIPUR

copy given vide
No-12705/231
23/12/10
4