

30/100
6
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

CP 36/04 and 102
102
INDEX

✓
O.A/T.A No. 259/2002
R.A/C.P No. 36/04
E.P/M.A No. 41/03

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SECTION OFFICER (Judl.)

4
FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 259/02

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Habnl Ghosh & ors

-Vs-

Respondent(s) Govt of W. B. & Ors

Advocate for the Applicant(s) Mr. D. K. Nandy, M/s U. Das

Advocate for the Respondent(s) Case

Notes of the Registry	Date	Order of the Tribunal
1. Application is filed in the Section 80(2)(a) is filed C.F. 2. Deposited No. 76.576324 16.7.02.	3.9.02	Heard Miss U. Das, learned counsel for the applicant. The application is admitted. Call for the records. List on 3.10.2002 for orders.
2. Registry Date Steps also with envelopes taken.	14/8/02	<u>I C U Shaha</u> Member
3. Notices prepared and sent to D-Section for issuing of the same to the respondents through Regd. post. Vide D. No. 24555 to 2557 13/11 Dtd. 12-9-02.	3.10.02	<u>I C U Shaha</u> Member List again on 13.11.02 to enable the respondents to file written statement.
<u>B.P.</u> T2/9/02	pg	<u>I C U Shaha</u> Member Due to circuit sitting at Guwahati the Case is adjourned to 26/11/2002.

2

(2)

No W/S has been
billed.

By

26.11.02

26.11.02 List on 2.1.2003 to enable the
respondents to file written statement
as prayed by Mr. J.L.Sarkar, learned
counsel for the respondents.

Vice-Chairman

mb

No written statement
has been billed.

By
27.1.03

27.1.2003. Due to vacation, the Case is
adjourned to 16.1.2003.

Mr.
A.K.Jay

16.1.2003. The hearing did not sit today, the
Case is adjourned to 28.1.2003.

Mr.
A.K.Jay

28.1.03 Present : The Hon'ble Mr. Justice D.N.
Chowdhury, Vice-Chairman.

The Hon'ble Mr. S.K. Hajra
Administrative Member.

Put up again on 26.2.2003
to enable the respondents to file
written statement.

No W/S has been
billed.

By
26.2.03

Member

Vice-Chairman

mb

26.2.2003 Mr. S.Sengupta, learned standing
counsel for the Railway stated that
in the absence of materials the respondents
are not in a position to submit
the written statement. Mr. U.K. Nair,
learned counsel for the applicant prayed
for two weeks time to take necessary
steps. List on 18.3.2003 to enable the
applicant to take necessary steps

No written statement
has been billed.

By
17.3.03

mb

Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

18.3.2003

8
3

The applicant is yet to take steps. Put up again on 2.4.2003 for taking necessary steps by the applicant.

Vice-Chairman

bb

2.4.2003

Heard Miss U. Das, learned counsel for the applicants and also Mr. S. Sengupta, learned standing counsel for the Railway.

Mr. S. Sengupta, learned standing counsel for the railway stated that the applicants have filed an M.P. incorporating certain additional facts. Mr. Sengupta will obtain necessary instructions on that matter. List again on 6.5.2003 for orders.

Vice-Chairman

mb

6.5.2003

Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. S. Biswas, Member (A).

Put up again on 10.6.03 to enable the respondents to file written statement, if any.

S. Biswas

Member

Vice-Chairman

mb

No written statement
has been filed.

23/3
5.5.03

No written statement
has been filed.

23/3
9.6.03

Notes of the Registry

23.7.03

WPs submitted
on behalf of the
Respondent Nos. 1 to 3.

BB

10.6.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. R.K. Upadhyaya,
Member (A).

No written statement so far
filed. The case is listed for hearing
on 21.7.2003. The applicant may
file reply, if any.

U. Das

Member

Vice-Chairman

mb

13.8.03

Replies submitted
by the applicant.

BB

21.7.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal,
Administrative Member.

Miss U. Das, learned counsel
appearing on behalf of the applicant
stated that she has received written
statement in Court today and wants to
go through the same. The case is accord-
ingly adjourned to enable the applicant
to file rejoinder, if any, within seven
days from today.

List the matter again on
14.8.2003 for hearing.

w
MemberVice-Chairman

mb

14.8.2003

List again on 25.8.2003 alongwith
M.P.41/2003 for hearing.

bbVice-Chairman

25.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahaladan, Member (A).

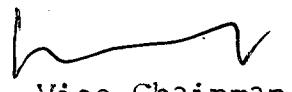
9.9.2003

copy of the judgment
has been sent to the
Office for scrutiny
in view to the applica-
tion for costs for the
parties.

445

Heard learned counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.


K.V. Prahaladan
Member


Vice-Chairman

mb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / ~~RE~~ No. of 259 2002.

25-8-2003.
DATE OF DECISION

Sri Habul Ghosh & Ors. APPLICANT(S).

Miss Usha Das ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

Sri S.Sengupta, Railway standing counsel . . . ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN

THE HON'BLE MR K.V.PRAHALADAN, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Ho'ble Vice-Chairman



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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 259 of 2002.

Date of Order : This the 25th Day of August, 2003.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

The Hon'ble Mr K.V.Prahaladan, Administrative Member.

1. Shri Habul Ghosh,
2. Shri Haren Das,
3. Sri Kishor Kumar Mandal,
4. Sri Biren Boro,
5. Sri Maina Boro,
6. Sri Kripa Tewary,
7. Sri Pradip Sarma,
8. Sri Paneswar Boro,
9. Sri Nagendra Boro,
10. Sri Anil Kalita and
11. Sri Bhogi Ram Basumatary

...Applicants

All the applicants are ex casual workers under
Alipurduar Division, N.F.Railway.

By Advocate Miss Usha Das.

- Versus -

1. Union of India,
represented by General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
2. The General Manager (Construction),
N.F.Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway Manager(P),
Alipurduar Division, N.F.Railway,
Alipurduar, West Bengal.

...Respondents

By Sri S.Sengupta, Railway standing counsel.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The eleven applicants claimed to be ex casual labourers in Alipurduar Division, N.F.Railway. In view of commonality of the cause of action, nature of claim and relief sought for leave was granted allowing the applicants

contd..2

to espouse their cause by one single application in terms of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987.

2. The applicants claimed that all of them worked in the Alipurduar Division as casual labourer on being engaged. When they were expecting for their regularisation they were arbitrarily terminated some times in 1981. After their termination all of them left for different destination in search of livelihood. The applicants thereafter came to learn about the decision taken by the authority for regularisation by absorbing all such persons and for that matter a special drive was also taken. According to applicants their names ought to have entered in Live Register for their absorption in the Railway as per the policy decision. The applicants claimed that persons similarly situated already moved the door of the Tribunal in O.A.79/96, O.A.43/2002 and O.A.44/2002 finally disposed of by the Tribunal on 11.1.99, 1.5.2003 and 1.5.2003 respectively.

3. The respondents contested the case by disputing their claim. In the written statement the respondents asserted that the casual labourers who have worked in N.F.Railway open line before 1.1.81 and were discharged for want of work or due to completion of work were given an opportunity to apply, if they so wished for inclusion of their names in the Live Casual Labour Register. They were asked to submit their representation with adequate documentary proof so as to reach the concerned Divisional Manager's office before the specified time. It was also asserted that in Bridge Division a panel of 715 men was drawn after screening who were borne on the various BRI units under DY.CE/BR/1/MLG and copy of the ex casual

labourers were sent to various BRI units. Out of the panel of 715 screened casual labour only 252 could be engaged. Rest could not be engaged for want of vacancies. According to the respondents none of the applicants applied for registering their names in live casual labour register or supplementary live registers in response to the notification dated 13.3.1987. As a result their names could not be registered with live casual labour register or supplementary live register. Since these applicants did not apply for the post their cases could not be considered. In the written statement the respondents however admitted that one ex casual labour namely, Sri Habul son of Ruplal was screened thereby indicating that the applicant was screened but he could not be absorbed for want of vacancy within the panel period.

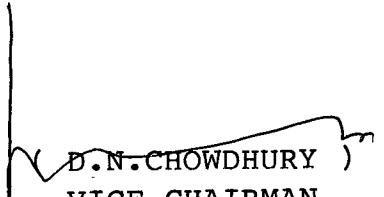
4. We have heard the learned counsel for the parties at length. Miss U.Das, learned counsel for the applicant referred to the decisions of this Bench rendered in O.A.79/96 as well as in O.A.43/2002 and 44/2002. The learned counsel contended that the case of the present applicants is squarely covered by those judgments. Mr S.Sengupta, learned Railway standing counsel appearing for the respondents opposing the claim of the applicants contended that these applicants did not come in time and could not be granted relief by the Tribunal for their latches. Mr Sengupta further contended that even on merit the applicants did not deserve any consideration since they are lacking for want of particulars in respect of their services.

5. We have given our anxious consideration on the matter. The plea of limitation raised by Mr Sengupta is no doubt a substantial question of law but then it will be

denial of justice if the applications of the applicants who are unemployed on retrenchment are thrown out on the ground of delay. After termination as it appears that they went in search of livelihood and scattered for different places. The authority reviewed its policy, which did not reach them. Only after came to know the decisions they have knocked the door of the Tribunal. The applicants are not guilty of any lasches. When similar nature of orders were passed it was equally incumbent on the part of the respondents to issue notices to all the like persons so that they could also approach the authority for appropriate relief. Be that as it may, we are of the opinion that the ends of justice will be met if a direction is issued on the applicants also to submit their representations giving the details of their services as far as practicable to the respondents authority narrating all the facts within six weeks from the date of receipt of this order and if such representations are filed within that time the respondents shall examine the same as expeditiously as possible preferably within two months from the date of receipt of the same and take appropriate decision as per law.

With these the application stands disposed of. There shall, however, be no order as to costs.


(K.V.PRAHALADAN)
ADMINISTRATIVE MEMBER


D.N.CHOWDHURY
VICE CHAIRMAN

134077
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 259 of 2002

BETWEEN

Shri Habul Ghosh & Ors. Applicants.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : Usha Das

Regn. No. :

File : HABUL

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

DA No. 259/182.

Filed by
the applicant through
Kishor Das
Advocate
12/8/02

- BETWEEN -

1. Sri Habul Ghosh.
2. Sri Haren Das.
3. Sri Kishor Kumar Mandal.
4. Sri Biren Boro.
5. Sri Maina Boro.
6. Sri Kripa Tewary.
7. Sri Praip Sarma.
8. Sri Paneswar Boro.
9. Sri Nagendra Boro.
10. Sri Anil Kalita.
11. Sri Bhogi Ram Basumatary.

1, 6, 7, 10

All are ex casual workers Under Alipurduar Division, N.F. Railway.

.....Applicants.

-AND-

1. Union of India.

Represented by General Manager, N.F.Railway, Maligaon.

Guwahati-11.

2. The General Manager (Construction).

N.F.Railway, Maligaon, Guwahati - 11.

3. The Divisional Railway Manager (P).

Alipurduar Division, N.F.Railway, Alipurduar.

.....Respondents.

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PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:

This application is not directed against any particular order but is directed against the inaction on the part of the Respondents in not considering the case of the applicant FOR absorption against Group-D posts and in also denying to them their due benefits for the service rendered by them as casual labourers. This application is also directed against the apathy shown by the Respondents in not granting due approval towards their absorption under regular establishment as has been done in case similarly situated employees ignoring the case of the present applicants.

2. LIMITATION:

The applicants declare that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That all the applicants are ex-casual labourers and



their grievances, subject matters are similar in nature and hence they crave leave of this Hon'ble Tribunal to join together in a single application invoking it's power under Rule 4(5)(a) of CAT, (Procedure) Rules of 1987.

4.3. That all the applicants are qualified to hold any Group-D posts under the Respondents. Due to poverty they had to abandon their studies and started looking for job at their teen age. The applicants in search of job approached the office of the Respondents and applied for Group-D posts. After due selection the applicants were engaged by the Respondents as casual Mazdoor in various station under Alipurduar Division, N.F.Railways, Alipurduar. The applicants on being selected joined their respective services and continued to perform their duties to the satisfaction of all concerned. The services rendered by the applicants had made them eligible for conferment of Temporary Status as well as other benefits admissible under law.

4.4. That after such appointments they had to perform their normal duties khalasi under the Respondents authority. Their such duties and responsibilities were similar to the duties and responsibilities of regular group-D employees. The applicants during their service tenure made request to the concerned authority for their conversion to regular employee and accordingly in fact the concerned authority took up their cases for conversion to regular employee by conferring Temporary Status as per law. However suddenly the Respondents issued verbal instructions to the applicants not to attend office any more. Even after such discharge the applicants continued to perform their duties with some artificial breaks. Applicants protested the aforesaid action of the Respondents but inspite of assurance

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nothing yielded in positive.

4.5. That the applicants state that after their Respondents authority however allowed them to work with some artificial breaks. The Respondents during these breaks period engaged outsiders as khalasi with the intention to frustrate the claims of regularisation of the applicants. As per the rule the Respondents are duty bound to maintain a live register of all the casual as well as ex-casual workers and to provide work as per their seniority. In the instant case neither the Respondents maintained the live register nor the applicants have been provided regular work as per their seniority. Non-maintenance of such register deprived the applicants their due to claims of regularisation under various provision of law.

4.6. That the applicants state that various Unions took up the matter of the applicants along with other similarly situated ex-casual workers. It is pertinent to mention here that some of the similarly situated ex-casual workers approached this Hon'ble Tribunal by way of filing O.A.No.79/96 praying for a direction towards their absorption under the Respondents. The aforesaid OA was disposed of by judgment and order dated 11.11.99 directing the Railway Respondents to consider their cases within a stipulated timeframe.

A copy of the judgment and order dated 11.11.99 is annexed herewith and marked as ANNEXURE-1.

4.7. That after the pronouncement of the aforementioned judgment the Respondents took initiative for ex-post facts approval by the General Manager, Railway and the applicants of the said OA have been granted with the benefit of Temporary

1X

Status. The Respondents in implementing the ANNEXURE-1 judgment issued call letters to those applicants of OA.79/96 for attending screening test and after the screening they got their absorption in the Group -D post. However, the Respondents confined the said benefits only to those applicants of OA No.79/96. In facts, preses applicants are also similarly situated like that of those applicants and the respondents ought to have extended similar benefit to the present applicants.

4.8 That the applicants state that although they are similarly situated like that of those applicants in OA.79/96, their cases were not considered in the screening held and as such they were deprived of an opportunity consideration of their cases for regular absorption under the Railways. Persons who were called for the said screening test held in the month of Dec '99 and thereafter got their absorption against Group-D post. To that effect the Respondents issued a Memorandum dated 21.4.2000 publishing a list of Selected screened ex-casual workers. It is pertinent to mention here that most of those selected ex-casual workers are junior to the present applicants and as such the present applicants were discriminated in the matter of appointment.

A copy of the Memorandum dated 21.4.2000 is annexed herewith and marked as ANNEXURE-2.

4.9 That the applicant on coming to learn about deprivation made several request to the concerned authority for consideration of their cases but nothing came out in positive. Situated thus, they requested the N.F.Railway Employees Union to take up their cases and according the said Union took up their cases and made several correspondences to the Respondents authorities for consideration of their cases. However, till date nothing came out

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in affirmative, hence this application.

4.10 That the applicant state that during their service tenure the authority concerned took up the matter of the applicants for their absorption against Group-D vacancies, but due to reasons best known to the said authorities process of absorption was kept in cool storage. It is pertinent to mention here that the Railways Board by its letter bearing No.E(NG)11/98/CL/32 dated 9.10.98 issued categorical instruction to all the zonal heads to fill up the Group-D vacancies by the Ex-casual workers born on Live/supplementary. Live casual Labour Register within a stipulated time frame. Instructions have also been issued to verify the records of all the casual/Ex-casual workers so that they can be absorbed accordingly in the Group-D establishment. The aforementioned letter dated 9.10.98 is not available with the applicants but reflection of the same can be verified from the letter dated 11.5.99. But the Respondents did not implement the instructions contained in the said letter issued by the Railway Board and for that the applicants are now nowhere. juniors to them are enjoying the benefits of absorbing and applicants who could not approach the door of the court are discriminated.

An extract of the letter dated 11.5.99 is annexed herewith and marked as ANNEXURE-3.

4.11 That the applicants beg to state that their employment as well as the member of working days are not in dispute. The service particulars of the applicants are very much available with the respondents. As per the instructions contained in the Railway Board's letter dated 9.10.98, the Respondents aught to have taken initiative in the matter regarding verification of records of the applicants and as per their seniority aught to

have regularised their services against the Group-D vacancies. The Mozdoor Union represented the matter of the applicants enclosing their biodata but till date the respondents have not intimated any thing to the said union. On the other hand recently the Respondents have issued various advertisements to fill up Group-D post under the Railways ignoring the claim of the applicants. as per procedures as well as the instructions contained in the Railway Boards letter the Respondents ought to have taken initiative to fill up those posts by the applicants who are the experienced hands but having not done so they have violated the settled principles of Law as well as the instructions contained in the Railway Boards letter.

Copies of some of the representations made by the Union are annexed herewith and marked as ANNEXURE-4 copy.

4.12 That the applicants beg to state that there is no dispute as regard the fact that they were engaged as casual labourers at different points of time by the Respondents and they having expressed their willingness for being appointed against any Group-D vacant post, it was incumbent upon the Respondents to take necessary steps for their such absorption. The pick and choose method adopted by the Respondents in this connection has resulted in hostile discrimination. As stated above the respondents now sought to fill up some of the group-D vacancies by issuing fresh advertisements from time to time ignoring the claims of the present applicants. Mention may be made of one of such advertisements issued in the year 2001 by which they sought to fill up 595 posts of track man by way of a special drive for SC/ ST. From the above advertisement it is clear that number of vacant posts are still in existence and which can be filled up through the applicants. The Respondents instead of making fresh

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advertisement ought to have first clear the list of Ex-casual labourers including the present applicants.

4.13 That the applicants are all qualified to hold Group-D post under the Respondents as they have completed requisite number of working days as the Respondents ought to have initiated steps towards their absorption. The Respondents instead of implementing the scheme as well as instruction in regard to absorption of Ex-casual workers now have issued various advertisements which is contrary to Law. In that view of the matter, the applicants pray before this Hon'ble Tribunal for an appropriate interim under restraining the Respondents to initiate any further steps towards filling up of any Group-D vacancies first considering the cases of the applicants.

4.14 That this application has been filed bonafide and to secure ends of justice.

5. Grounds for relief with legal provisions:

5.1. For that any view of the matter the impugned action on the part of the Respondents depriving the applicants their due claims of absorption and regularisation is in clear violation of principle of natural justice and as such same is not sustainable.

5.2. For that the applicants being the Ex-casual labourers of the Respondents and they having been worked under the Respondents for a considerable length of time, they are entitled to benefit of absorption under the rules the Respondents can not discriminate between sets of employees who are similarly situated.

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5.3. For that the Respondents being a model employer ought to have first considered the cases of the applicants before issuance of the advertisements. Having not done so the Respondents have violated the instructions contained in the Railway Boards letter as well as various rules guiding the field.

5.4. For that the similarly situated employees like that of the present applicants have been extended with the benefits of absorption under the Respondents and hence there is no earthly reasons as to why similar benefit should not be extended to the present applicants who are similarly circumstanced.

5.5. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicants declare that he has exhausted all the remedies available to them and there is no alternative remedy available to them.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicants further declare that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is

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pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicants:-

8.1. To direct the Respondents to issue necessary order of absorption to each applicants after observing the formalities as prescribed, with retrospective effect that is from the date on which juniors to the applicants were absorbed with all consequential service benefits.

8.2. To direct the Respondents to regularise the services of the applicants and to extend all the related consequential service benefits after their absorption.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicants is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

During the pendency of the OA the applicants pray for an interim order directing the Respondents not to fill up any Group-D post without first considering the cases of the applicants.

10.

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11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 76 546374
2. Date : 16/7/02
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Sri Habul Ghosh, S/O. late Ruplal Ghosh, aged about years, at resident of vill. Rangapara, dist- Sonitpur, Assam. I hereby solemnly affirm and verify that the statements made in paragraphs 4.3, 4.4, 4.5, 4.8, 4.9, 4.12, 4.12, 5.18, 12, are true to my knowledge and those made in paragraphs 4.6, 4.8, 4.10, 4.11, are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 9th day of August of 2002.

Sri Habul Ghosh

Signature:

13 - 13 - 25
Set
SPECIAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure - 1

Original Application No. 79 of 1996.

Date of decision : This the 11th day of January, 1999.

Hon'ble Mr. Justice D.N.Baruah, Vice-Chairman.

Hon'ble Shri G.L.Sanglyine, Administrative Member.

Shri Ananda Ramchhary & 31 Others.
All are ex-casual labourers
in the Alipurduar Division,
N.F.Railway.

Applicants
By Advocate Mr. S.Sarma.

-versus-

1. Union of India,
represented by the General Manager,
N.F.Railway,
Maligaon, Guwahati-II.

2. The Divisional Railway Manager (P),
Alipurduar Junction,
Alipurduar.

3. The General Manager (Construction),
N.F.Railway, Maligaon,
Guwahati-II

..... Respondents

None appears on behalf of the respondents.

ORDER

BARUAH J (V.C.).

Thirty two applicants have filed this present application. Permission as per the provisions of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 was granted by order dated 28.5.96.

2. In this application the applicants have prayed for directions to the General Manager, N.F.Railway Maligaon, to issue necessary approval towards engagement

R
Contd...

Attested
D.S.
Advocate

Attested
W.D.
Advocate

of the applicants made on or after 1.1.1981 and also to confer the benefits to the applicants as casual labourers under the rules and thereafter appoint the applicants against the available backlog vacancies meant for Scheduled Tribe candidates and another reliefs they are entitled to.

3. All the applicants belong to a community recognised as Scheduled Tribe and therefore they are entitled to special privileges under the Constitution. The applicant on being selected, were engaged as casual worker and had been working as such. They worked the requisite number of working days to get temporary status as well as other benefits under the Scheme. However, service of the applicants had been terminated prior to 1981. Thereafter, in the year 1995, the Divisional Railway Manager, Alipurduar Junction, N.F.Railway, issued a circular dated 13.02.1995 regarding Special Recruitment Drive of SC/ST candidates. As per the said circular in order to clear the backlog of SC/ST Group 'D' recruitment categories in terms of GM(P)/MLG's letter dated 1.7.1993, special recruitment drive was under the process and due to non-availability of Scheduled Tribe candidates amongst the existing casual labourers in combined seniority list, a list of SC/ST ex-casual labour of open line

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Attested
U Das
Advocate.

Attested
Wilson
Advocate.

and construction organisation was submitted by the Divisional Secretary AISCTERA/APDJ. In the said list names of 56 numbers of construction ex-casual labour was submitted. Pursuant to this list, the name of the applicants were included. However, name of the applicant No. 18 was not in the said list.

4. Heard Mr. S.Sarma, learned counsel appearing on behalf of the applicants.

5. Mr. Sarma submits that the authority after having decided to engage casual workers and application having been forwarded except the applicant No.18 they ought to have been engaged but nothing was done. Mr. Sarma further submits that non-action of the authorities to engage the applicants giving all the benefits they are entitled to under the scheme has caused great hardships to the applicants besides they are being prejudiced. Therefore he prays a direction to the respondents to act in terms of the decision taken by the authorities concerned as mentioned above.

6. On hearing the counsel for the applicant and on perusal of the application we feel it will be expedient if the applicants file representation giving details about their grievances within a period of one month from the date of receipt of this order. If such representation is filed within this period,

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Arrested
V.S. D.
Advocate

Arrested
V.S. D.
Advocate

the authority shall consider the same and take a decision regarding engagement of the applicants. As the respondents have already taken a decision to engage the applicants there may not be any difficulty in taking such decision.

7. We, therefore dispose of this application with direction to the respondents to consider the case of the applicants if any representation is filed within one month from the date of receipt of this order and respondents shall take decision regarding the engagement of the applicants within two months thereafter.

8. Considering the facts and circumstances of the case, we however, make no order as to costs.

sd/VICE CHAIRMAN
sd/MEMBER (Admin)

trd

Attested
V. S. S.
Advocate.

Ch. W. S.
W. S.

Northeast Frontier Railway

Office of the
Div. Rly. Manager(P)/APD

MEMORANDUM : No.E/227/FC SV(E) AP

Dated: 21/04/2000

The result of the screening test held on 13.1.2000 in the screening of Exi. ST Casual labour of Construction Organisation and FCW Units are furnished below. The following Exi. ST Casual labour of Construction Organisation and retrenched Casual labour of FCW Units who worked in the territorial jurisdiction of this Division, their names are arranged in order of seniority based on total number of service put by them.

The result of screening test has been approved by ADM/APD on 19.4.2000.

Sl. No.	Name	Father's name	Under whom I worked.	Date of birth.	Date of first engagement.	Total (No. of days.)	Whe- ther I	Educational qualification.	
								5	6
S/No.								ISC/STI	ICBC.
1.	Ganesh Narjinary	D. Narjinary	GM/CON/MLG	20.11.65	1.5.84	975	ST	VIII passed.	
2.	Keshab Ch. Boro	Kamala Kanta Boro	-do-	23.9.66	5.9.84	879	ST	VIII passed.	
3.	Bhubaneswar Boro	Janaki Boro	-do-	14.3.65	27.3.84	847	ST	IX passed.	
4.	Amir Boro	Lt. Lati Ram Boro	-do-	3.1.66	27.3.84	87	ST	X passed.	
5.	Pratul Kherketary	N. Kharketary	-do-	3.2.66	27.3.84	812	ST	IX passed.	
6.	Moniram Swargiary	Lt. J. Swargiary	-do-	31.3.66	27.3.84	817	ST	IX passed.	
7.	Fritin Ch. Kalita	Lt. Jogeswar Kalita	SEN/FCW/MLG	31.12.59	16.6.82	724	ST	IX passed.	
8.	Ananda Ramchary	Lt. M. Ramchary	GM/CON/MLG	21.3.66	2.4.84	680	UR	X passed.	
9.	Hireswar Boro	Jeeiaran Boro	-do-	16.7.66	26.9.84	680	ST	IX passed.	
10.	Rupen Ch. Brahma	Dhagen Brahma	-do-	1.2.66	1.5.84	610	ST	IX passed.	
11.	Hari Chandra Boro	Nepit Boro	-do-	3.5.67	1.5.85	610	ST	VIII passed.	
12.	Arabinda Boro (I)	Dhandra Boro	-do-	1.4.67	1.5.85	610	ST	IX passed.	
13.	Dwipen Boro	Hari Chandra Boro	-do-	27.5.66	1.8.84	590	ST	IX passed.	
14.	Jadav Swargiary	Powl Swargiary	-do-	27.3.66	1.7.84	588	ST	IX passed.	
15.	Khagendra Nath Boro	Belaram Boro	-do-	1.3.66	1.5.86	465	ST	IX passed.	
16.	Jogen Boro	Kheniram Boro	-do-	20.10.65	1.8.84	518	ST	X passed.	
17.	Mrinal Chakraborty	Lt. Khagendra Chakraborty	SEN/FCW/MLG	1.1.63	19.7.84	408	UR	S. F. passed.	
18.	Tapen Seal	Amritlal Seal	-do-	3.8.60	22.7.78	404	UR	S. F. Failed.	
19.	Pradip Kr. Boro	Nebin Boro	GM/CON/MLG	1.10.66	13.6.85	322	ST	IX passed.	
20.	Ranjit Brahma	Lt. N. Brahma	-do-	1.10.66	13.6.85	322	ST	IX passed.	
21.	Arindinda Boro (II)	Waran Ch. Boro	-do-	20.6.67	13.6.85	322	ST	X passed.	
22.	Phul Basumatary	Naheswar Basumatary	-do-	23.6.67	13.6.85	322	ST	VIII passed.	
23.	Bimal A. Basumatary	U. Krish Kr. Basumatary	-do-	2.4.67	13.6.85	321	ST	IX passed.	

(contd... 2..)

Attested
S. K. Baru
Advocate

Attested
W. D. D.

Advocate.

- 18 -

S/SNRI

24.	Ashok Ranichary	Lt. M. Ram Basumatary	GM/CCN/MLG	11.3.67	1.11.85	304	ST	IX passed.			
25.	Bhabit Boro	Pati Boro	-	30.9.67	1.11.85	304	ST	VIII passed.			
26.	Damodaram Deka	Bhekularam Deka	-	27.3.67	1.8.84	275	ST	IX passed.			
27.	Kanailalwar	B. R. Boro	-	1.1.63	1.4.85	275	ST	IX passed.			
28.	anil Kr. Yadav	J. P. Jodav	SEN/FCW/MLG	15.2.67	10.6.85	251	OSG	III passed.			
29.	Uttam Ch. Boro	Biliram Boro	GM/CCN/MLG	2.1.66	1.5.86	258	ST	-do-			
30.	Katuna Kanta Swargiary	Katiram Swargiary	-	1.3.66	10.4.86	243	ST	-do-			
31.	Samala Boro	Lt. Mangal Boro	-	15.6.66	1.85	239	ST	-do-			
32.	Hari Chandan Boro	Lt. Umesh Boro	-	1.6.66	1.5.84	214	ST	-do-			
33.	Yaneshwar Swargiary	Lt. D. R. Swargiary	-	1.9.65	1.85	214	ST	-do-			
34.	Yash Swargiary	Ratna Swargiary	-	30.5.61	1.5.85	214	ST	-do-			
35.	Rukhmel Basumatary	B. Basumatary	-	1.1.67	1.8.85	212	ST	-do-			
36.	Anur Boro	Lt. Biren Boro	-	1.3.67	1.1.85	184	ST	IX passed.			
37.	Heremba Kr. Daimary	Phisala Daimary	-	1.3.67	1.6.85	184	ST	-do-			
38.	Ratiram Boro	Lt. Jogendra Boro	-	31.1.66	1.4.84	183	ST	-do-			
39.	Rajendra Daimary	Donda Daimary	-	30.1.65	1.5.84	153	ST	VIII passed.			
40.	Colak Ch. Boro	Dibar Boro	-	3.2.66	1.4.84	153	ST	-do-			
41.	Sibhas Boro	Anaram Boro	-	17.2.66	1.4.84	153	ST	IX passed.			
42.	Moniram Boro	Lt. Umesh Ch. Boro	-	21.3.66	1.8.35	153	ST	-do-			
43.	Kishma Basumatary	Sonu Basumatary	-	7.1.67	1.11.85	151	ST	-do-			
44.	Narayan Basumatary	Rajendra Basumatary	-	1.4.55	1.3.4.85	141	ST	-do-			
45.	Jitendra Boro	D. R. Boro	-	1.2.65	1.5.84	123	ST	-do-			
46.	Bikui Ch. Boro	Moraram Boro	-	20.8.66	1.5.84	123	ST	-do-			
47.	Prafulla Swargiary	N.C. Swargiary	-	30.5.67	1.85	123	ST	-do-			
48.	Gajendra Nath Boro	D. N. Boro	-	2.1.60	1.5.79	121	ST	S. F. Passed.			
49.	Pares Boro	Anaram Boro	-	20.9.57	12.85	121	ST	IX passed.			

Copy forwarded for information & necessary action to :-

- 1) GM(P) A.G. (2) SPO/RSV/MLG. (3) GM/CCN/MLG, SPO/HS/MLG
- 4) DIV. CCN/MLG. (5) SEN/FCW/MLG. (6) DRM(W./RSV).
- 7) Divl. Secy. AFISCU/SPDJ. (8) Convener/AFRMU/SPDJ. (9) Divl. Secy. AFISCTREA/SPDJ.
- 10) C.R. to Sr. IFC/SPDJ. (11) C.M.S./SPDJ.

Attested
N.D. an
Advocate. (sdas/21/4/2K)

Attested
N.D. an
Advocate.

FOR DIVL. RLY. MANAGER(P),
MILIPURUJIR JUNCTION.

21/4/2000
FOR DIVL. RLY. MANAGER(P),
AFISCTREA/SPDJ.

21/4/2000
FOR DIVL. RLY. MANAGER(P),
AFISCU/SPDJ.

ANNEXURE-3

31 (Extract)

(Copy of Rly. Board's Letter No. E(NG)II/93/CL/18 dated 11-5-93).

Sub:- Screening of Casual Labour borne on the
Live Register/Supplementary Live Register.

Attention is invited to the instructions contained in Board's letter No. E(NG)II/93/CL/32 dated 9-10-93 regarding updating of Group-'D' vacancies in the different departments by removing the casual labour borne on Live/Supplementary Live Casual Labour Register.

2. In accordance with the discussions held on the subject in Board's office with the CPO(A)s of all Zonal Railways on 1-4-99, appropriate action may be taken to verify the authenticity of the existing Live/Supplementary Live Casual Labour Registers and for updating the same as on 1-4-99, in accordance with the instructions contained in Railway Board's letters No. E(NG)II/78/CL/2 dt. 21-2-86 & 22-11-84, E(NG)II/78/CL/2 dt. 25-4-86, E(NG)II/78/CL/2 dt. 12-6-87 & E(NG)II/78/CL/2 dt. 8-12-88. The final figures of the number of persons on Live/Supplementary Live Casual Labour Register respectively, as on 1-4-99, may be informed to Board by 31-5-99.

3. Separate lists of casual labour borne on the Live Register/Supplementary Live Casual Labour Registers as on 1-4-99 with the following particulars may be made out, as discussed in the meetings with CPO(A)s on 1-4-99 : -

SN.	Name.	Whether Genl./SC/ ST/CBC.	Whether within the age limit of 40 yrs. for Genl. 43 yrs. for OBCs and 45 yrs. for SC/ ST as on 1-4-99	Whether infill education criteri of class YES/NO	Whether has completed 120 days of servic 1-4-99 YES/NO	Whether paid YES/NO

(un/14699.)

DISCRETE
W.D. on
Recd.

3/

To The Divisional Railway Manager (D.R.M.)

Alipurduar Jn.

N.E. Railway

Div. Engg. P.I./B.R./R.P.A.R

Sub:- Prayer for appointment in Group 'D' in any department.

Sir,

Most respectfully, I beg to lay before you the following few lines for your information and kind consideration please.

That Sir, I have worked as casual labour from 27.1.77 to 15.4.77 and 2.11.77 to 7.1.1978 in open line under B.R.I./R.P.A.R. Again I have worked from 29.12.92 to 13.5.93 P.M./I.H.O./B.R.I./R.P.A.R. I applied for my appointment in open line in Group 'D' category in any department in several occasion. But Sir, till date I have not been favoured with the same.

Under the above I would request your honour kindly to look into the above presently and arrange for my appointment in Group 'D' category in any department considering my working days as casual labour in the Bridge department as prayed for it an early date and obliged.

Dated: 31.05.97

Yours faithfully,

Habul Chophi

(Habul Chophi.)

Ex. Casual Labour under
B.R.I./R.P.A.R and H.S./I.H.O./N.E.R.
under D.E.M./A.R.D.J. N.E.Rly.

C/O Railway Bazar (Ward No. 2)
RANAKHOMAIPUR Post: Dangapur
District: Sonitpur, ASHAN.

Forwarded for
disposal & Please
P.D.

for M.R.M. 1/6
for engineer / Bridge
for M.R.M. 1/6 - R.P.A.R.

Dad
6/6

Conc.
W.D.
ccato.

To,
The General Manager,
N.F. Railway/Maligaon.

Date : 14/2/2001.

33

Sir,

Sub :- Absorbtion in Rly. Department
as Class-IV Category.

I have the honour to state that I have been working in N.F. Rly. under Bridge Department at Rangapara. My date of appointment of this department was 2/1/77 and discharged on 15/4/77. Again I put in service on 2/11/77 upto 7/1/78 & discharged. I had completed 146 days service in bridge department. From 1978 onwards I got no service. But I beg to inform you, that since I was completed my screening test during year 1979 & my S.L. No.570 but I was not absorbed in any department inspite of my application to DRM(P)/APDJ on 31/5/97. But till date no any response. In this connection I beg to inform you that I had made application to Dy. Chief Engineer Bridge Line/ Maligaon on 22/3/91 but no any response. Finding no other alternative, I again approach your kind honour to look into my case & arrange to put me in service in Class-IV Category as I am qualified for the Rly. Class-IV Categories.

From 1978 onwards, I heard nothing from the Rly. department and I am quite alone to strive against this. Kindly look into this & give me assurance whether I will be absorbed in the Railways. I am belonging to OBC Candidate & I got age for service.

Yours faithfully,

Habul Ghosh.

(HABUL GHOSH)
Rangapara.

Copy to :-

1. Dy. Chief Engineer/bridge/Line/Maligaon.
2. DRM(P)/APDJ/N.F. Rly/Alipurduar Junction.
3. BRI/Rangapara/N.F. Rly.
4. CPO/A(S) Maligaon for information & necessary action.
5. Labour Inspector/Maligaon.

Sd/- Habul Ghosh
Rangapara.

Attested
by
Habul
Ghosh
Advocate.

DRM(P) - RYD NO - 2
- 34 MARKET
Post - RANGAPARA
Dist - SORITPUR, ASSAM
784505

कानूनी प्रवासीय अधिकारी
विवाही विविध विवाही विवाही
6 JUL 203
मुद्रादाती नामदात
Bengali, Bengali

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT GUWAHATI

IN THE MATTER OF OA NO 259 OF 2002
SRI HABUL GHOSE AND 10 OTHERS Applicant
VS

1. UNION OF INDIA (Represented by GM, N.F. Railway)
2. The General Manager (Construction) Maligaon.
3. Divisional Railway Manager, Alipurduar Jn.

N.F. Railway, Respondents.
-And-

In the matter of written statement for and on behalf of the respondent Nos. 1 to 3 of the application

The answering respondents most respectfully beg to sheweth as under:-

1. That, the answering respondents have gone through the copy of the application filed by the applicants and have understood the contents thereof.
2. That the application suffers for ~~exist~~ a valid cause of action and / or right for filling the application.
3. That, the claims of applicants is vague and is not maintainable in its present form and is fit ^{be} one to dismissed in limine.

Neither the copies of service book nor any other records concerning the detailed service particulars of all those 11 persons (applicants) have been furnished/attached to the applications and as such, it is not possible to connect the records.

4. That, the application is barred under the law of limitation and under the Section-21 of the Central Administrative Tribunal Act, 1985. The averments made at paragraph-2 of the application are denied.

If any cause of action accrued in the year 1977, 1980, 1982 or so they could have agitated these matters at the proper level including seeking redress through the Court / Hon'ble High court and the Hon'ble Central Administrative Tribunal in time instead of seeking some remedies now after more than two decades in August/02, and no valid reason ^{shown} and cond~~on~~ation petition appears to have been filed. Further, with the passage of times, various changes in office set up, record management and its upkeep/ retention etc. crops up and it becomes

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difficult to trace out records unless detailed service particulars/ copies etc. are supplied for each and every applicant as mentioned in the OA concerned.

The application is therefore liable to be dismissed on ground of vagueness and insufficient material / particulars.

5. That, save and except those statements / averments in the application which are specifically admitted herein below or are borne on records, all other averments/allegations of the applicants in the application are denied herewith and the applicants are put to strictest proof thereof.
6. That, there has been no illegality or irregularity in the case as alleged and all actions as alleged by the applicants at Para-4.13 itself of the application are quite in consonance to Law, Rules and procedures in vogue and there has been no violation of principle of natural justice etc. as alleged.
7. That, for the sake of brevity, the meticulous denial of each and every statement in the different paragraphs of the application have been avoided and the answering respondents have been advised to confine their submission only on these relevant points in the application which are pertinent etc. for purpose of arriving at a proper decision in the case.
8. That, for ready perusal, the fact of the case, brief, is submitted herein below:-

Brief History of the case:-

The Casual Labour who had worked in N.F. Railway on Open Line ~~and~~ before 01.01.81 and were discharged for want of further work or due to completion of work were given an opportunity to apply, if they so wish for inclusion of their names in the Live Casual Labour Register. They were asked to submit their written representation with adequate documentary proof in this regard so as to reach the concerned Railway Divisional Manager 's office on or before 31.03.87.

They were asked to send the application by Registered Post to the Divisional Railway Manager of the Division in the territorial jurisdiction of which the persons were initially engaged as Casual Labour. A copy thereof was

(Contd... to Page-3)

- 3 -

also be sent to the Divisional (Open line) Railway Manager of the Division
will territorial jurisdiction of the office from which the person was discharged.
copy should also be marked to PWI / IOW etc. under whom they worked. The
above instruction was circulated vide GM (P)/MLG's letter No. E/57/0/Pt.XI (C)
dt. 13.03.87 in response to Railway Board's letter No: E (NG) 1.78/CL/2 dt.
04.03.87.

In Bridge Division a panel of 715 men was drawn after screening daily rated casual labour who were borne on the various BRI units under D.Y.CE/BR/L/MLG and copy of the provisional list of Ex Casual labour of Bridge Division were sent to various BRI Units vide D.Y.CE/BR/L/MLG's office letter No. EW/255/1 (B)/Pt.II dt. 06.03.81. Out of the panel of 715-screened casual labour only 252 could be engaged. Rest could not be engaged for want of vacancies. In response to CM (P)/MLG's notification dt. 13.03.87 none of the applicants applied for registering their names in live casual labour register / supplementary live registers. As a result, their names could not be registered with supplementary live register also.

Railway Board's letter No. E (NG) / II/98/CL/32 Dt. 09.10.98
circulated vide GM (P) /MLG's notification No. Rectt. 884 /E/57/0/Pt. XII (C)
dt. 04.12.98 also applies to Ex. Casual labour who were discharged prior to
01.01.81 for want of work or due to completion of work, not re-engaged there-
after and who applied by 31.03.87 for the purpose and were ^{found} eligible by
committee of officers on each Division (Xerox copy of Rly. Board's circular No.
GM (P)/MLG's Notification enclosed).

As the applicant did not apply at the proper time for consideration of their cases, their cases cannot be considered at present.

It is however to mention herein that though ~~only~~ one ex. Casual Labour named Shri Habul son of Rupal was screened, it appears that he could not be absorbed in the cadre (Bridge Division) for want of required vacancies etc. within the panel period. ^{or so} Further, there is no other detailed particulars either of Shri Habul or of the applicant Shri Habul Ghose or of the other applicants in this OA

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Wm Green Jr

and neither Shri Habul or any of the applicants submitted any application in response to GM(P)/N.F. Railway, Maligaon's notification dated 13-03-1987 or the Railway Board's letters mentioned herein above and as such question of appearing Shri Habul's name or any of the applicants name in the Live Register did not arise in terms of Railway Board's letters/instructions etc. Copies of the above-said letters/Circulars of the Railway Board's are also annexed hereto as under for ready perusal.

a) Letters regarding maintenance of live Casual Labour Register:

- (i) Railway Board's letter No.E(NG)-II-78/CL/2 dated 04-03-87 as Annexure.....I series.
- (ii) Railway Board's DO letter No.E(NG)II/78/CL/2 dated 06-03-1987 as ANNEXURE-II
- (iii) GM(P)/N.F. Railway/Maligaon letter No.E/57/O Pt.XIC dated 13-03-1987 to all concerned annexed as Annexure-III

b) GM(P)/N.F. Railway/Maligaon letter No.E/57/O/Pt.XIC dated 13-03-1987 showing issuance of notice to open line Casual Labour as Annexure-III/I.

c) Regarding screening of casual Labour borne on live Casual Labour register:-

Copy of Railway Board's letter No.E(NG)II/98/CL/32 dated 09-10-1998 as Annexure-IV.

-And-

d) Copy of letter No.RECT-884E/57/O/XIIIC dated 04-12-98 regarding screening of Casual Labour borne on live/supplementary Live Casual Labour Register annexed as Annexure-V.

9. That the averments at paragraph 4-1, 4-2, 4-3, 4-4 & 4-5 of the application cannot be accepted as correct unless detailed particulars of each of the applicant and their service records etc are made available. From the contents of the OA, it is not clear as to whether all the petitioners had ever worked under the Rly. as casual Labour or not and also that if anybody of them ever worked for some period as to how they were appointed and what were the conditions of their appointment and also what were the causes for termination

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of their services and for which period they worked and under whom and under what project served etc.

It is submitted that after all this long period, it is very difficult to trace out the records and submit a proper written statement in the case relating to the applicants.

16. That, with regard to averments, in paragraphs 4-6, 4-7, 4-8 and 4-9 of the application, it is submitted that in absence of actual reference and the related service particulars and copy of the letter etc. if any issued in the name of the parties / applicants, it is very difficult to throw any light on the matter and hence the contentions of the applicants are denied here-with. It is also submitted that from the copy of the Annexure-1 to the application i.e. the judgment and order dated 11.11.99, it transpires that the applicants were not parties in the OA No. 79/96 and there is no mention in same about the present applicants and hence the said judgment cannot have any binding effect on the respondents in the case.

Further, the submissions in those aforesaid paragraphs are quite vague and devoid of relevant particulars and references and hence denied herewith.

11. That, with regard to the averments at paragraph 4-10 of the application, it is submitted that as no relevant details could be made available by the applicants, none of the allegation of the applicants are admissible.

At this date nothing can be stated as to why the applicant's cases were not put within the purview of eligibility for inclusion in such referred live register or why their cases could not be considered.

12. That, with regard to averments at paragraph 4-11 of the application it is submitted that for want of detailed particulars nothing can be accepted and hence question of intimation or reference with any persons or bodies did never occur.

The applicants are put to strict proof by records and evidences etc. to show that there has been any violation etc. of Rly. Board's letter / instruction etc. In absence of the above, allegation are denied herewith.

(Contd... to Page-6)

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13. That, with regard to averments at paragraphs 4-12, 4-13 and 4-14 of the application it is submitted that none of the allegations as made in the application are correct and hence these are denied herewith.

The following contentions of the applicants are also denied herewith:

- I) *That there is no dispute as regards that their engagement as Casual Labour after they expressed their willingness for such appointment against Group - D vacant post; or that it was incumbent on the part of respondents to absorb them against such post; or their have been a pick and choose policy in the absorption of Group - D staff or there had been hostile discrimination in such absorption of staff.*
- II) *That, there had been any irregularity in issuing any advertisement etc. for resorting to special recruitment drive etc. for SC / ST quota vacancies of Group - D posts ignoring the alleged claim of the applicants etc., or,*
- III) *That the applicants were qualified and had eligibility for absorption against the group D post or*
- IV) *That the respondents issued advertisement in contrary to law as alleged, or*
- V) *That this application has been filed bonafide to secure ends justice.*

It is also to submit herein that some of the particulars as submitted by the applicants (For 5 applicants out of the 11 applicants) are quite in-adequate to trace out the relevant particulars of all these 5 persons also not to speak of the 11 applicants who have filed the case and as such unless more detailed particulars are furnished, it becomes difficult to submit a proper reply in this case. They

could not even show any appointment/engagement letter/proof or termination letter etc. or other correspondences from Railways side.

14. That, in view of what have been submitted in the above paragraphs of this written statement, none of the grounds for relief as contained in paragraph 5 of

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the application and also the relief as sought under paragraphs 8 and 9 of the application are sustainable under law and fact of the case and the prayers are liable to be rejected.

It is also denied that:

a) There has been any deprivation of the applicants, or, the applicants had right to claim absorption and regularization against Group-D posts, or, that there had been any violation of natural justice etc. or discrimination between sets of employees similarly situated or that there had been any violation of statutory Rules or instructions of the Rly. Bd's etc. as alleged.

Further, in view of the applicants' clear assertion at paragraph-1 (particulars of the impugned order) of the application to the effect that the application is not directed against any particular order, the vague contention of the applicants to the effect that "Impugned action of the respondent are not sustainable in the eye of Law and liable to be set aside and quashed" etc. are quite untenable and the application is liable to be dismissed on this ground also. The applicant has not cited/mentioned as to which orders of the respondents are impugned in the case.

15. That, it is submitted that no action have so far been taken which is contrary or in violation of laws and rules/procedures in vogue. The application is based on wrong premises and suffers from misconception and misinterpretation of Rules & Laws on the subject.

16. That, the necessary esquires are still under progress and the answering respondents crave leave of the Hon'ble Tribunal to file additional written statement, if found necessary after such esquires, for the ends of justice.

17. That, under the facts and circumstances of the case as stated in the foregoing paragraphs of the written statement, the instant application is not maintainable under law and fact of the case and is liable to be dismissed.

(Contd... to Page-8)

VERIFICATION

I, MOHINDER SINGH..... son of SHRI TILAK RAM aged about, 38, years, by occupation, Railway Service, working as A.Y.: CE/BL..... of the N.E. Railway Administration at MALIGAO, N. Guwahati do hereby solemnly affirm and state that the statement made at paragraph-1 and 7 are true to my knowledge and those made at paragraph-8, 9, 10, 11 and 12 are based on information's as gathered from records of the case which I believe to be true and rest are my humble submission before the Hon'ble Tribunal and I sign this verification on the 18th day of July/2003.



NORTHEAST FRONTIER RAILWAY
FOR AND ON BEHALF OF UNION OF INDIA

नेत्र उपर्युक्त दस्तावेज़ का
द्वारा दिया गया है, यानि

By, Chief Engineer Bridges Mr.

M. P. Singh, Malleram

Copy of Rly. Board's letter No. E(NG)IL-8/CL/2 dated 1.3.1987 addressed to the General Manager, Mr. Indian Railways & other.

Sub:- Casual labour- maintenance of Live Casual Labour Register.

Attention of the Railway Administrations is invited to instructions contained in this Ministry's letter of even number dated 25.4.1986.

2. So far as project Casual labour are concerned, instructions were issued in the Ministry's letter No.E(NG)IL-84/CL/41 dated 11.9.1986, regarding grant of temporary status and preparation of revised seniority list. In the Ministry's letter of the same number dated 2.3.1987, instructions have now been issued to provide an opportunity to project casual labour discharged before 1.1.1981 for want of work or due to completion of work and not re-engaged thereafter, to claim the benefit of the scheme contained in this Ministry's letter of 11.9.1986 cited above.

3. Ministry of Railways desire that opportunity may be given to open line casual labour also who were discharged before 1.1.1981, for want of work or completion of work, for considering inclusion of their names in the Live Casual Labour Register. For this purpose the instructions contained in this Ministry's letter No.E(NG)IL-84/CL/41 dated 2.3.87 will apply mutatis mutandis. The last date for receipt of applications complete in all respects in the manner indicated in the said letter of 2.3.1987, will be 31. March, 1987. Representations alongwith documentary proof and details as mentioned in the said letter of 2.3.1987, reaching the concerned Divisional Office after 31.3. 87 or those which are incomplete and also those not made with reference to these instructions, will not be considered. The cases of such open line casual labour will, however, be considered only in the seniority unit of the Establishment in which they were initially engaged.

4. Suitable publicity to these instructions may be given by the Railway Administrations.

Sd/- (M.KUJUR)
DEPUTY DIRECTOR ESTABLISHMENT (N)
RAILWAY BOARD.

Government of India (S. I. R. No. 13/87)
 Ministry of Railways (Rail Mentralaya) R.B.E. No. 13/87. 31
 (Railway Board) S. M. 24

New Delhi, dated 4.3.1987. 43

No. E(NG)II-78/CL/2. 78/CL/2.

The General Managers,

All Indian Railways,
 including G.W./D.L.W./I.C.F. & W&AP.

The General Manager (Constn)
 Northeast Frontier Railway,
 Maligaon, Gauhati.

The General Manager,
 Metro Railway, Calcutta.

The C.A.O. (R),
 M.T.P., Bombay and Madras.

The DG/RDSO, Lucknow.

The Addl. General Manager,
 Railway Electricity,
 Allahabad.

The CAO(R)/ DW
 DCW/Patiala.

The COFMOW/New Delhi.

OSD/Rail Coach Factory,
 Kapurthala, Jallandhar City.

Subject: Casual labour maintenance of Live Casual Labour
 Register.

Attention of the Railway Administrations is invited to
 instructions contained in this Ministry's letter of even
 number dated 25.4.1986.

2. So far as project Casual labour are concerned, instructions
 were issued in the Ministry's letter No. E(NG)II-84/CL/41 dated
 11.9.1986, regarding grant of temporary status and preparation
 revised seniority list. In the Ministry's letter of the same
 number dated 2.3.1987, instructions have now been issued to
 provide an opportunity to project casual labour discharged
 before 1.1.1981 for want of work or due to completion of work
 and not re-engaged thereafter, to claim the benefit of the scheme
 contained in this Ministry's letter of 11.9.1986 cited above.

3. Ministry of Railways desire that opportunity may be given
 to open line casual labour also who were discharged before
 1.1.1981 for want of work or completion of work, for consider
 inclusion of their names in the Live Casual Labour Register.
 For this purpose the instructions contained in this Ministry's
 letter No. E(NG)II-84/CL/41 dated 2.3.1987 will mutatis
 mutandis. The last date of receipt of applications compl
 in all respects in the manner indicated in the said letter of
 2.3.1987, will be 31. March, 1987. Representations alongwith
 documentary proof and details as mentioned in the said letter
 of 2.3.1987, reaching the concerned Divisional Office after
 31.3.1987 or those which are incomplete and also those not ma
 with reference to these instructions, will not be considered.
 The cases of such open line casual labour will, however, be
 considered only in the seniority unit of the Establishment in

Apply

...2/

15.96 6 31.3.98

which they were initially engaged.

5. Suitable publicity to these instructions may be given by the Railway Administrations.

6. Hindi version will follow.

Copy to
(M. KUJUR) 4.3.87
DEPUTY DIRECTOR ESTABLISHMENT (N)
RAILWAY BOARD.

No. E(NG)IL-78/CL/2. New Delhi, dated 4.3.1987.

Copy to:

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi (25 spares).
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi (with 25 spares).
3. All Members of the National Council Departmental Council and Secretary, Staff Side National Council, 13-C, Ferozshah Road, New Delhi.

Kuljinder
for Secretary, Railway Board.

Copy to:

PS/ME, MS and Adv (IR).
Sr. PA/EDCE, EDW, EDE, BE (N), AEDE (C), AEDPC, AEDE (P&A) AEDE (T&A), AEDE (R), DDE (N).
JDE (N), JDE (R) I, JDE (R) II, DDE (D&A), DDE (R) I, II, III, ENGL, E (SCT) I II, E (TeP) I, II, III with 5 spares.

IMMEDIATE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

N. PADMANABHAN

DIRECTOR ESTABLISHMENT (N)

D.O. No. E(NG) 11/78/CL/2 New Delhi, dated: - 6 - 3 - 1987

My dear Subramanian,

Sub:- Casual labour - maintenance of Live
Casual Labour Register.

I enclose for your ready reference a copy of this Ministry's letter of even number dated 4.3.1987 on the above subject with the request that action as indicated therein may be taken immediately. It may be ensured in particular that adequate publicity to the provisions of these instructions is given as laid down therein by all concerned immediately and in any case within the next few days.

Yours sincerely,

Subramanian

(N. PADMANABHAN)

DA/One
Shri V. R. Subramanian,
C.P.O.,
N.F. Railway,
Guwahati.

Copy ~~are~~ with a copy of letter dated 2.3.1987
to Shri. N. Subramanian, OS/I (I.R.), N.F.
Railway, Guwahati.

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-12-
ANNEXURE - II

33. 105. SP 37
16/3/87

N. F. RAILWAY.

Office of the
General Manager (Personnel)
Maligaon, Guwahati-11.

No. E/57/2 Pt. XI (C).

To :
ADM/DRMS,
Dy. CE/En. Line/PNO,
XEN/PNO, DSTE/MW/PNO,

Dated 13.3.1987.

13

Sub:- Casual labour maintenance of the Casual Labour register.

A copy of Rly. Board's letter No. E(NG)II-78/GM/2 dated 4.3.87 is attached herewith for your guidance. The following action may please be taken immediately. Copies of Notices as attached may be arranged to be exhibited in all the subordinate offices where the casual labourers are dealt with. Suitable publicity may be given to the same by exhibiting the Notice in the sub-divisional offices as well as in the Divisional office, Important Rly. Stations etc., as considered necessary.

The applications received should be compiled at the end of the specified period and statements prepared separately for Open Line Casual labour & Project Casual labour indicating the name, service particulars showing the period and place of working and whether the application is complete in all respects. A copy of the statement should be sent to this office for further instructions. The statements should reach this office positively within the second week of April/87.

Encl:- As above.

10/2
Morn

for GENERAL MANAGER (P.).

Copy to N.E., CSE, DRB with 20 copies of Notice.

Encl:- As above.

10/2
for GENERAL MANAGER (P.).

C/C

3/20/87
to APD/E-1

ANNEXURE - II/1

N. F. RAILWAY.

NOTICE 1/57/C/Pt. XI (B)

Dated 13.3.1987.

NOTICE TO OPEN LINE CASUAL LABOURERS

The Casual labourers who had worked in N.F. Railway as Open Line Casual Labourers before 1.1.81 and were discharged for want of further work or due to completion of work, are hereby given an opportunity to apply, if they so wish, to be considered for inclusion of their names in the Live Casual Labour Register.

1. They should submit their written representation with adequate documentary proof in this regard so as to reach the concerned Railway Divisional Manager's office on or before 31.3.87.

2. The application should be sent by Registered Post to the Divisional Railway Manager of the Division in the territorial jurisdiction of which the person was initially engaged as ~~Project~~ Casual Labourer. A copy thereof should also be sent to the Divisional ~~Open Line~~ Railway Manager of the Division in the territorial jurisdiction of the office from which the person was last discharged. A copy should also be marked to the PWI/IOW etc., under whom they worked.

3. The applications reaching after 31.3.87 or those which are incomplete will not be considered.

4. The application should contain the following particulars and documents mentioned below:-

1. Name -
2. Father's name -
3. Date of birth -
4. Permanent address -
5. Present address -
6. Educational qualifications -
7. Personal marks of identification -
8. Office/department & place in which initially engaged & date -
9. Office/department & place from which finally discharged -
10. Date of discharge and reasons for the same -
11. Whether employed at present, and if so, details -
12. Two attested copies of Casual Labour Card or any other proof of his casual labour service, should accompany the application
13. An attested copy of photograph and attested LTI should also accompany the application -
14. Any other relevant information -

For DIVISIONAL MANAGER (P),
N. F. RAILWAY, MUMBAI.

MINISTRY OF RAILWAYS
RAILWAY BOARD

NO. EX. RG/II/98/CL/32

New Delhi, 11. 10. 98

The General Manager (P)s
All Indian Railways & Production Units etc.
(As per standard list)

Subject: Screening of casual labour borne on the live/supplementary
live casual labour register.

As the Railways are aware, the extant instructions require that Casual Labour Live Registers should be maintained for Open line casual labour (unit-wise) and for the Project casual labour (Division-wise) for each Department in each Division. The copies of these live registers are to be invariably maintained in the Divisional Office and up-dated every year.

Ref:
Board's letter,
Ex. No. 1770
dt. 24.11.81
2.3.87 and
31.10.87.

Board's letter No.
E(RNG) 16/3/CL/13
dt. 16.9.93
E(RNG) 17/3/CL/2
dt. 21.2.94
& 22.11.94
E(RNG) 17/3/CL/2
dt. 25.1.95
E(RNG) 17/3/CL/6
dt. 12.6.97
E(RNG) 9/78/CL/2
dt. 8.12.93.

Board's letter No.
E(RNG) 9/9
78/CL/18 dt
21.2.94
E(RNG) 17/3/CL/2
dt. 1.3.97
E(RNG) 17/3/CL/16
dt. 1.1.98.

Ch. 100

1.1. Similarly Supplementary Casual Labour Live Registers are to be maintained Division-wise separately for both Open line and Project casual labour who were discharged prior to 1.1.81 for want of work or due to completion of work and not re-engaged thereafter and who had applied by 31.3.87 for the purpose and were found eligible for the purpose by a Committee of Officers on each Division.

2. Now that the Casual Labour on roll have been absorbed under the special drive during the period from 1.5.96 to 31.3.98, further, vacancies in the different departments of a Division/Unit may be filled up by screening the casual labour borne on the Live register(s) and after exhausting them, by screening those borne on the Supplementary live register of the Division/Unit.

2.1. In case of the casual labour borne on casual labour live registers, the regularization will continue to be as per their turn according to seniority based on the number of days put in by them as casual labour.

2.2. However, in case of the casual labour borne on supplementary live register, the extant instructions which stipulate that the persons borne on Supplementary live register will be considered for regularization based on the service after re-engagement after 1.1.81 (it may be noted that after such re-employment they would have in any case appeared in the live register as well) have now lost relevance. The same are, therefore, modified to provide that the regularization of casual labour borne in casual labour supplementary live register will be considered in accordance with the number of days put in by them prior to 1.1.81, those falling in this category being placed en bloc below any who may have rendered services after re-engagement after 1.1.81.

3. Board desire that the Notices of screening alongwith the Lists of persons to be screened out of the persons borne on the Live Register and/or Supplementary Live Register as the case may be (the total no. of persons on the List being equal to the no. of vacancies required to be filled up by the screening), shall be issued under the signature of an officer of the Personnel Branch of the Division concerned. In addition to displaying the Notice alongwith the List, on the Notice Board(s), etc. he will also send a letter under his signature enclosing a copy of the Notice and the List to each of the individual concerned by registered Post A/D advising that in case the individual does not turn up, his name will be deleted from the Casual Labour Live Register/Supplementary Casual Labour Registers as the case may be, and that thereafter he would have no further claim for casual labour for absorption by screening in Group 'D', so that there is no difficulty in taking action for deletion of the names of those who do not turn up.

OS/E
10/10/98- 17 -
Casual LabourA.C. 1. 1. 1.
(Devki T. Bhattacharya)
Director Establishment (N)

DY CPO/IR, 1/10/1998

Northeast Frontier Railway

Office of the
General Manager(P)
Maligaon, Guwahati-11

RECT. 884.

E/57/0 Pt.XII (C)

Dated 11.2.98

To :

GM(Con), Maligaon

All PHODs, All DRMs & All DAOs,
All controlling Officers of Non-Divisionalised Offices,
The GS/NFREU, NFRMU & AISCTREA.

Sub:- Screening of Casual Labour borne on the Live/
Supplementary Live Casual Labour register.

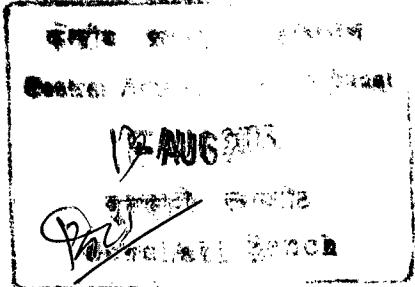
A copy of Railway Board's letter No.E(NG)II/98/CL/32 dated 09.10.98 on the above mentioned subject is forwarded for information and necessary action. It is clarified that screening of ex.casual labour borne on the live/supplementary live Casual Labour Register against vacancies in the various departments would not be a matter of course and automatic but this process has to be decided based on justification regarding filling up of vacancies in a particular department. Proposals for appointment of ex.casual labour from these registers would continue to be sent to HQ for obtaining GM's approval and only after the approval is conveyed to the division, they would take further necessary action regarding appointment of such ex. Casual Labour against vacancies by screening them according to seniority. For any further clarifications of any doubts reference to HQ must invariably be made. Board's earlier letters mentioned in the margin on their present letter were circulated as under :-

Board's letter No. & date.	CPOs Circular No. & date.
1. E(NG)II/84/CL/41 date 02.03.87	1. E/57/II (C). dated 13.03.87 (DRMs only)
2. E(NG)II/84/CL/41 date 21.10.87	2. DO No.E/57/II(C) dated 11.11.87
3. E(NG)II/78/CL/2 date 21.02.84	3. Rect.686.E/57/0 Pt.X(C). dated 16.03.84
4. E(NG)II/78/CL/2 date 02.11.84	4. Rect.706.E/57/0Pt.X.(C) dated 10.01.85
5. E(NG)II/78/CL/2 date 25.04.86	5. Rect.732 E/57Pt.XI(C). dated 21.05.86
6. E(NG)II/78/CL/38 date 12.06.87	6. E/57/0 PtXI.(C) dated 09.07.87
7. E(NG)II/79/CL/2 date 03.03.82	7. Rect.644/E/57/0Pt.IX (C) dated 08.04.82
8. E(NG)II/88/CL/18 date 01.11.88	8. Rect.766/E/57/11 Pt.II(C) dated 25.11.88

W. M. D.

DY.CPO/IR

For General Manager(P)
NF Railway, Maligaon



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH.

DA No. 259/03.

Habul Ghosh & Ors.

..... Applicants

-VS-

Union of India & Ors.

..... Respondents

REJOINDER SUBMITTED BY THE APPLICANTS AGAINST THE WRITTEN
STATEMENT FILED BY THE RESPONDENTS.

1. That the applicants have received a copy of WS and have gone through the same. Save and except the statements which are specifically admitted herein below, rests may be treated as total denial. The statements which are not borne on record are also denied and the Respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1,2,3 & 4 the applicants while denying the contentions made therein beg to state that the applicants were waiting for their turn of regularisation in terms of the Railway Board's instruction and in the year 2000 ignoring their claim the Respondents served fresh Causal Workers (Annexure-2 letter dated 21.4.2000) ignoring the claim of the applicants. The applicants while coming to know about the development represented their cases but pending

Fixed by
applicants through
Alphah Dass
Advocate
11/8/03

~ 2 ~

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disposal of such representation once again series of advertisements in the years 2001, 2002 & 2003 have been issued ignoring the claim of the applicants. This application has been filed by the applicants against the aforesaid illegalities. It is noteworthy to mention here that similarly situated employees in OA NO. 79/96 (Annexure-1) got their reliefs from this Hon'ble Tribunal and the present applicants are also seeking similar relief in this application. It is therefore the contentions raised by the respondents regarding cause of action as well as limitation is baseless and not sustainable.

3. That with regard to the statement made in para 5 to 7 of the WS the applicants while reiterating and reaffirming the statements in the OA beg to state that the Respondents through their action/inaction has given rise to the cause of action and now by filing the written statement they have raised the question of non-violation of Article 14 and 16 of the constitution of India, whereas it is seen from Annexure-2 document and subsequent advertisement made by the Railway Administration that there has been discrimination apparently on the face of it. On the other hand the Railway Administration implemented the Annexure-1 judgment and the other two connected OAs (OA Nos 43 & 44 of 2002) disposed of on 17/5/2003 and as such question of depriving the present applicants does not arise whereas all are similarly situated employee.

Copies of the judgments passed in OA No. 43 & 44/02 are annexed herewith and marked as Annexure RJ-1 and RJ-2 respectively.

4. That with regard to the statement made in para 8 (brief history of the case) of the WS the applicants while denying the contentions made therein beg to state that the instruction contained in Annexure contained in Annexure-1 series 2, 3, 4, 5 to the WS. Now has got no legal force in terms of the Annexure-3 communication dated 11/5/99 wherein the Railway Board directed the Zonal authority to make proper security of the matter regarding absorption of ex-casual labourers. In view of the above it is crystal clear that the Respondents have violated the norms and guidelines and as such appropriate direction need be issued for absorption of the casual workers in group-D posts under the Railways.

5. That with regard to the statement made in para 9 of the WS the applicants while reiterating and reaffirming the statement made above as well as in the OA beg to state that the Railway authority being a model employer ought to have kept the records intact instead of making such casual statements. In such an eventuality the Hon'ble Tribunal may be pleased to call for the records of the matter.

6. That with regard to the statement made in para 10 of the WS the applicants beg to state that the Annexure-1 judgment has already been implemented by the Respondents and the Subsequent judgments (Annexure-R1 & R2) have also been implemented by the Respondents. Since applicants were not party to that proceeding the aforementioned judgments never made applicable to the present applicants and in fact, that was the reason for which the applicants were compelled to file this application.

7. That with regard to the statement made in para 11 of the WS applicants beg to state that the Respondents themselves have admitted the fact that although the applicants were eligible for absorption but their cases were never considered and as such appropriate direction need be issued to the Respondents for absorption of the applicants in group-D posts with retrospective effect.

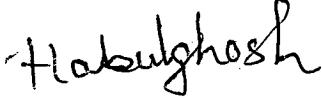
8. That with regard to the statement made in para 12 & 13 to of the WS the applicants while reiterating and reaffirming the statements made above beg to state that from the above factual matrix of the case it is crystal clear that the Respondents have ignored the case of the applicants without any valid reason and as such while granting the relief the authorities may be directed to pay the cost of the application.

9. That in view of the above facts and circumstances narrated above as well as in OA the applicants pray before this Hon'ble Tribunal to allow the OA with cost.

VERIFICATION

I, Sri Habul Ghosh, S/O. Late Ruplal Ghosh, aged about years, at resident of vill. Rangapara, dist- Sonitpur, Assam. I hereby solemnly affirm and verify that the statements made in paragraphs 1 to 9 are true to my knowledge and those made in paragraphs are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 11th day of August of 2003.


Signature.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.43 of 2002.

Date of Order : This the 1st Day of May, 2003.

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

1. Shri Dhaneswar Rahang
2. Shri Lohit Ch. Boro
3. Shri Rati Kanta Boro
4. Shri Monoranjan Dwaimary
5. Shri Manteswar Boro
6. Shri Joy Ram Boro
7. Shri Haricharan Basumatary
8. Shri Durga Ram Daimary
9. Shri Sabjib Boro
10. Shri Khargeswar Swargiary
11. Shri Pradip Kr. Boro
12. Shri Upen Narzary
13. Shri Tarun Ch. Boro
14. Shri Ramesh Ch. Ramchiary
15. Shri Monoranjan Deori
16. Shri Ram Nath Pathak
17. Shri Gopal Basumatary
18. Shri Malin Kr. Das
19. Shri Ranhit Swargiary
20. Shri Ratna Kanta Boro
21. Shri Nirmal Kr. Brahma
22. Shri Monoj Das
23. Shri Mrinal Das
24. Shri Sanjay Kr. Narzary
25. Shri Pankaj Baruah
26. Shri Ajit Kr. Sarania
27. Shri Sunil Ch. Boro
28. Shri Bipin Ch. Boro
29. Shri Nepolian Lahary
30. Shri Rajen Daimary
31. Shri Ansuman Swargiary
32. Shri Suren Daimary
33. Shri Raju Borah
34. Shri Pradip Das
35. Shri Robin Dwaimary
36. Shri Pradib Boro
37. Shri Chandan Dev Nath
38. Shri Kamaleswar Boro
39. Shri Phukan Boro
40. Shri Krishna Ram Boro
41. Shri Ratneswar Boro

Contd./2

Altested
by
Advocate

: 2 : 7 -

All Ex-Casual Labourers in the Alipurduar Division, (BG/CON), N.F.Railway. Applicants.
By Advocates Mr.U.K:Nair & Ms.U.Das.

- Versus -

1. Union of India
Represented by the General Manager
N.F.Railway, Maligaon, Guwahati-11.
2. The General Manager (Construction)
N.F.Railway, Maligaon, Guwahati-11.
3. The Divisional Railway Manager (P)
Alipurduar Division, N.F.Railways
Alipurduar. Respondents.

By Dr.M.C.Sarma, Railway Standing counsel.

ORDER

CHOWDHURY, J.(V.C.):

The applicants are 41 in number claiming absorption/appointment under the respondents as protected class in terms of the policy decision taken by the Railway Administration. Since the facts situation, cause of action and reliefs sought for are same and similar, permission was accorded to the applicants to espouse their cause by way of one single application under rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

1. The applicants claim that they belong to a community recognised as Scheduled Tribe and Scheduled Caste and are, therefore, entitled to special privileges guaranteed to the protected class in terms of the constitutional provisions. It was averred that these applicants on being selected, were engaged as Casual Labourer and had been working as such. They completed the requisite number of working days to get the temporary status as well as the other benefits under the Scheme, but instead of regularising them in service, they were terminated prior to 1981. In the application it was also mentioned about the circular dated 13.02.1995 issued by the Divisional Railway Manager, Alipurduar, N.F.Railway in respect of Special Recruitment Drive of SC/ST candidates. As a matter

Contd./3

of fact, Special Recruitment Drive was initiated, initially some were regularised leaving the applicants. It was also pleaded that the case of the applicants were forwarded by the competent authority, but since no action taken by the respondents, they moved this Tribunal for redressal of their grievances.

2. Though time granted to the respondents on number of occasions, the respondents did not come forward with the written statement. Dr.M.C.Sarma, learned Standing counsel for the Railways, was requested on the last occasion to obtain necessary instruction on the matter. Dr.Sarma stated that he is yet to obtain necessary instruction and sought for some more time today also for obtaining further instruction. Already sufficient time was granted to the respondents, but no truthful action was taken. In the circumstances, I am not inclined to grant any further time to the respondents, more so, in view of the fact that like cases were disposed in O.A.79 of 1996 dated 11.1.1999.

3. I have heard Mr.U.K.Nair, learned counsel for the applicants as well as Dr.M.C.Sarma, learned Standing counsel for the Railways at length. On consideration of all the facts and circumstances of the case it appears that the case of these applicants are squarely covered by the decision rendered by this Tribunal in O.A.79 of 1996 dated 11.1.1999. On consideration of all the aspects of the matter, I am of the opinion that ends of justice will be met, if a direction is issued to these applicants to submit individual representations narrating all the facts. Accordingly the applicants are directed to submit individual representations to the authority within a period of one month from the date of receipt of the order. If such representation is filed within the time prescribed, the respondents shall consider the same in the light of the decision

: 4 ✓ 9 - 8b

taken earlier and pass appropriate order within three months from the receipt of their representations on verification and scrutiny of the documents.

Subject to the observations made above, the application stands disposed.

There shall, however, be no order as to costs.

sd/ VICE CHAIRMAN

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23/5/03
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati 781005
KL 23/5

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 44 of 2002.

Date of Order : This the 1st Day of May, 2003.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

1. Shri Suren Ramchiary
2. Sri Ratan Boro
3. Sri Mizing Brahma
4. Sri Rajit Brahma
5. Sri Jaidev Swargiary
6. Sri Naren Ch. Basumatary
7. Sri Raj Kumar Mandal
8. Sri Biren Baishya
9. Sri Angat Das
10. Sri Radha Shyam Mandal
11. Sri Monilal Nurzary
12. Sri Swargo Boro
13. Sri Ramesh Ch. Boro
14. Sri Biren Baishya
15. Sri Jogendra Pasi
16. Sri Ramjit Das
17. Sri Naren Ch. Boro

All Ex-Casual Labourers in the Alipurduar Division, N.F.Railway.

Applicants.

BY Advocates Mr.U.K.Nair & Ms.U.Das.

- Versus -

1. The Union of India
Represented by the General Manager
N.F.Railway, Maligaon, Guwahati-II.
2. The General Manager (Construction)
N.F.Railway, Maligaon, Guwahati-II.
3. The Divisional Railway Manager (P)
Alipurduar Division, N.F.Railways
Alipurduar.

Dr.M.C.Sarma, Rly.Standing Counsel.

Respondents.

O R D E R

CHOWDHURY J.(V.C.):

The applicants are 17 in number, who are the Ex-Casual labourer in Alipurduar Division, N.F.Railways. Since the cause of action as well as reliefs sought for are same and similar, the applicants were granted leave to espouse their cause by one single application in terms of the rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

1. In this application the applicants sought for

Attested
N.D.N.
Advocate

directions to the General Manager, N.F.Railway, Maligaon to issue necessary approval towards engagement of the applicants made on after 1.1.1981 and also to confer the benefits to them as casual labourers under the rules and thereafter regularise their appointment to fill up the backlog vacancies meant for Scheduled Tribe candidates. In this application the applicants claimed that they belonged to the protected class of persons listed as Scheduled Tribe and Scheduled caste/entitled for the constitutional guarantee provided by the Constitution. It was also pleaded that the applicants, on being selected, were engaged as casual labourer and were continuing as such. They completed the requisite number of working days, entitled for conferment of temporary status. However, instead of regularising their services, they were terminated prior to 1981. The applicants also referred to steps taken by the Railway authority to fill up the reserve vacancies by way of a Special Recruitment Drive vide circular dated 13.02.1995. Mr.U.K.Nair, learned counsel for the applicants, invited my attention to the communication No.6/37/2000-Gen/01 dated 26.4.2001 sent by the Director of National Commission for Scheduled Castes & Scheduled Tribes, State Office, Guwahati, Govt. of India addressed to the General Manager (P), N.F.Railway and stated that in the aforementioned list of 120 ex.casual labourers, were forwarded by DRM(P)/APDJ to GM/Com/MLG for verification vide endorsement dated 10.7.1995, the name of the applicants also appeared. But their names are not yet approved, by the authority and till now no action has been taken for their absorption.

2. Dr.M.C.Sarma, learned Standing counsel appearing for the Railways, however, stated that in the absence of necessary instruction, he is not in a position to assist the Court on the factual matter. Dr.Sarma, however, stated that the Railway authority in terms

of the policy made all endeavour to regularise the persons included in the reserve vacancies as per law. Dr.Sarma submitted that in this case also the authority might have taken the necessary steps as per law.

3. I have given my anxious consideration on the matter. The policy of recruitment of the listed class is not in dispute. Dr.Sarma, however, stated that the claim of the applicants need to be scrutinised and examined and without that no steps can be taken.

Mr.U.K.Nair, learned counsel for the applicants, on the other hand, placed before me the judgment and order rendered by this Tribunal in O.A.79 of 1996 disposed on 11.1.1999.

Considering all the facts and circumstances of the case, I am of the opinion that ends of justice will be met, if a direction is issued to these applicants to submit individual representations before the authority.

Accordingly, the applicants are directed to submit individual representations before the authority narrating their grievances within a period of one month from the date of receipt of the order. If such representation is made within the time prescribed, the respondents shall examine the respective cases and scrutinise and verify their claims. If the applicants fulfil the requirement, the authority shall consider their case for absorption against available vacancies as per law. It is expected that the authority shall take all the necessary steps for expeditious disposal of the matter and shall complete the process within three months from the receipt of the representations. While considering the claims of these applicants the respondents authority shall also take into consideration the memorandum No.E/227/RC SV(E) AP dated 21.4.2000 issued by the Divisional Railway Manager(P)APDJ, N.F.Railway, whereby the authority approved the result of the screening test

in view of the policy decisions of the Govt. of India.

Subject to the observations made above, the
above application stands disposed.

There shall, however, be no order as to costs.

sd/ VICE CHAIRMAN

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AS/23/5/03

Section Officer (J)
C.A.T. GUWAHATI FED'N CH
Guwahati-18'05

AS/23/5/03