

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATE BENCH

ORDER SHEET

Orig. App./Retn./Cont. Petn./Rev. Appl. 37/04

In O.A. 44/02

Name of the Applicant(s) Susee Ramchaniy Gore

Name of the Respondent(s) H.O.P. Gore

Advocate for the Applicant Ms. U. Das Ms. B. Devi

Counsel for the Railway/C.G.C.C.

OFFICE NO.

DATE

ORDER OF THE TRIBUNAL

This Contempt
petition has been
filed by the Counsel
for the petitioner praying
for appropriate execution
of the Judgement and
order dt. 1.5.03 passed
by this Hon'ble Tribunal
in O.A. 44/02.

26.8.2004

Present: HOn'ble Shri D.C. Verma,
Vice-Chairman

Hon'ble Shri K.V. Prahladan,
Administrative Member.

Heard Ms U. Das, learned counsel
for the petitioner. Issue notice to
the respondents to show cause why
proceedings for contempt of court be
not initiated against them for non-
compliance of the Tribunal's order
dated 1.5.2003 passed in O.A.44 of
2002. Reply be filed within four
weeks. List on 29.9.04 for orders.

Laid before the
Hon'ble Court for further
order.

10/9/04
Member

Vice-Chairman

nkm

29.9.04

On the request of Dr M.C.Sharma
learned standing counsel for the
respondents stand over to 4.11.04 for
filing reply.

Member

Vice-Chairman

Section Officer

Notice & order sent
to D/Section for
issuing to resp.
Nos. 1, 2, by regd.
with A/D post.

4.11.04. Present: Hon'ble Mr. Justice R.K. Batta.
Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administra-
tive Member.

Heard learned counsel for the
parties.

The learned counsel for the
applicants states that in view of the
reply filed by the Respondents repor-
ting compliance of order of this
Tribunal, the application be disposed
of. The application is accordingly
dismissed.

K. V. Prahladan
Member

R. K. Batta
Vice-Chairman

lm

postal A/D card
received from
resp. No. 2. 1.

28-9-04

Service completed
no reply has been
filed

3-11-04

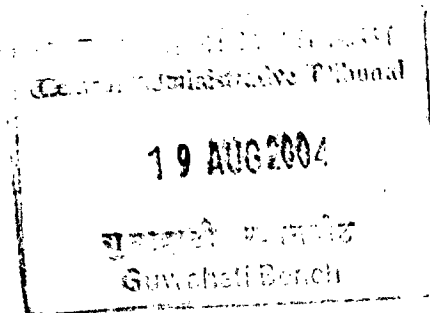
no reply has been
filed.

R. K. Batta
clerk/clean
N.A.R.P., M.C.
10/11/04
One copy O.A. NO. 37/04

16.11.04

Copy of the order
has been sent to
the D/Sec. for
recip. The same
to the L/Advocates
for the parties.

HL



3
Filed by
the Petitioner's Counsel
Pusha Das
Advocate
20/7/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

C.P. No. ³⁷...../04.
O.A.No.44/02

Sri Suren Ramchiary & ors.
.....Applicants.
-VS-

Union of India & Ors.
.....Respondents

IN THE MATTER OF

An application under Sec 17 of the Administrative Tribunal Act, 1985 for drawing up contempt proceeding against the contemnors for their willful and deliberate violation of the Judgment and order dated 01.05.03 passed in OA No.44/02 by this Hon'ble Tribunal.

- AND -

IN THE MATTER OF

An application praying for appropriate execution of the Judgment and order dated 01.05.03 passed in OA No.44/02 by this Hon'ble Tribunal, invoking the power under Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987.

4

IN THE MATTER OF

1. Sri 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

Petitioners/Applicants.

- versus -

1. Sri.N.Ramasuramaniyan.
The General Manager (Con)
N.F.Railway, Maligaion.
Guwahati. Assam.
2. Mrs. Pampa Babbar,
The Divisional Railway Manager,
Alipurduar Division. N.F.Railway,
Alipurduar.

Contemners/ Respondents.

The humble application on behalf of the petitioner above
named.

MOST RESPECTFULLY SHEATH

1. That the petitioner/applicant claiming the benefit of regularisation, preferred the above O.A No 44/2003. The Hon'ble Tribunal was pleased to dispose of the said O.A vide its judgment and order dated 01.05.03.

Copy of the judgment and order dated 1.5.03 annexed herewith and marked as ANNEXURES-1.

2. That the petitioner immediately on receipt of the copy of the judgments submitted the same before the concern authority vide their individual representations but till date nothing has been done in this matter even after the expiry of the several months. The petitioner repeatedly kept on pursuing the matter before the concerned authority praying for implementation of the judgment and order dated 1.5.03.

Copies of some of the representations dated are annexed herewith and marked as Annexures - 3 colly.

4. That the petitioner begs to state that the aforesaid representation filed by the petitioner were received by the respondents. The respondents/condemners have full knowledge about the passing of the said judgments and order dated 1.5.03 and passed in O.A no 44/02, but in spite of this the respondents/contemners have acted in a contemptuous manner. The respondent for such inaction and willful violation of the said

Judgment and order made themselves liable to be punished under contempt of Court's Act.

5. That the petitioner begs to state that the condemners have acted in violation of the judgment in not considering the case of the petitioner within the stipulated time frame and as such they are liable to be punished severely for their such action invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provision under Central Administrative Tribunal (Contempt of Court's) Rules 1992 as well as the provisions contained in the contempt of Court's Act 1971.

6. That the petitioner begs to state that inspite of repeated requests the Respondents have acted contrary to the judgment and the contemner is continuing such inaction even after expiry of the stipulated timeframe. It is therefore is a fit case for invoking Rule 24 of the Central Administrative Tribunal (Produced) Rule 1987 directing the Respondents to implement the Judgment and order dated 1.5.2003 passed in OA No.44/02.

7. The this application has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to initiate appropriate contempt proceeding against the contemners for their willful and deliberate violation of the Judgment and order dated 1.5.2003 passed in OA No.44/02, by this Hon'ble Tribunal, and to punish them severely invoking the power under section 17 of the Administrative Tribunal Act,

1985 read with Central Administrative Tribunal
(Contempt of Court) Rules 1992 as well as the
provisions contained in the contempt of courts
Act, 1971 with a further direction towards the
contemners to implement the said Judgment and
order, ad/or pass any such order/orders as may
be deemed fit and proper.

And for this act of kindness the petitioners as in duty bound
shall ever pray.

4

DRAFT CHARGE

Whereas 1. Sri.N.Ramasuramanyam, the General Manager (Con), N.F.Railway, Maligaion, Guwahati. Assam. and 2. Mrs. Pampa Babbar, the Divisional Railway Manager, Alipurduar Division. N.F.Railway, Alipurduar. dated 1.5.83 passed in O.A NO 44/82, passed by the Hon'ble Tribunal and as such they are liable to be punished severely invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provisions under Central Administrative Tribunal (Contempt of Courts) Rules 1992 as well as the provisions contained in the Contempt of Courts Act, 1971

AFFIDAVIT

I, Sri Suren Ramchiary, aged about 30 years, son of E. Ramchiary, at resident of Maligaon, Guwahati, Assam, do hereby solemnly affirm and state as follows;

1. That I am the petitioner in the instant application and am acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs 3, 4, 5,
6, 7 are true to my knowledge ; those made in paragraphs 1, 2 being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this affidavit on this the 21st day of July of 2004.

Identified by me :

Usha Das
Advocate

Suren Ramchiary

Deponent.

Solemnly affirm and state by the deponent who is identified by Miss U. Das. Advocate. on this the 21st day July 2004.

7

Bandana Devi
Advocate

Original Application No.44 of 2002.

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

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

- ✓ 1. Shri Suren Ramchiary
- 2. Sri Ratan Boro
- 3. Sri Mizang 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-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.

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

ORDER

CHOWDHURY J.(V.C.):

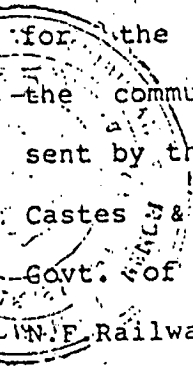
The applicants are 17 in number, who are the Ex-Casual labourer in Alipurduar Division, N.F.Railways. Since the cause of action as well as reliefs sought

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.

In this application the applicants sought for

Attended
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 ^{who were} 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

Attended
N.D.M.
Advocate

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

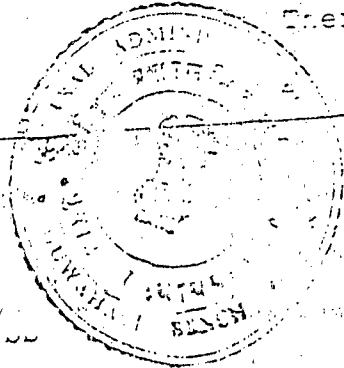
Attended
under
Advocate

11
13
: 4 :
in view of the policy decisions of the Govt. of India.

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

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

Sd/VICE CHAIRMAN



Verified to be true Copy
সত্য প্রমাণিত

[Signature]
17/5/03
Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

Attested
by
Advocate

12 -
Annexure - 2

Dated - 23/5/04

To,

- (1) The General Manager (Con)
N.F.Railway, Maligaon,
Guwahati.
- (2) The Divisional Railway Manager (p)
Alipurduwar Division, N.F.Railway,
Alipurduwar.

Sub: Judgment and order passed in OA No.44/02

Sir,

With due respect we beg to lay the following few lines for your kind information and necessary action thereof.

Sir, we on being selected were engaged as casual labourer and were continuing as such in the respective posts. We completed requisite number of days, entitled for conferment of temporary status. Instead of regularising our services, we were terminated prior to 1981.

There after the Railway authority had taken steps to fill up the reserve vacancies by way of special recruitment drive vide circular dated 13.2.1995. By the communication No 6/37/2000-Gen/01 dated 26.4.2001 sent by the Director of National Communication for Scheduled Caste and Scheduled Tribes, State office, Guwahati, Govt. of India addressed to you and stated that a list of 120 ex-casual labourers, were forwarded by DRM(P)/APDJ to GM/COM/MLG for verification vide endorsement dated 10.7.95 where our names were also appeared. But our names are not yet approved by you and till now no action has been taken for our absorption.

Sir, we belong to very poor family and also belong to the protected class of persons listed as Scheduled Tribe and Scheduled Caste who are entitled for constitutional guarantee provided by the Constitution.

Sir, we the ex-casual labourers of Alipurduwar Division, N.F.Railways aggrieved by the action towards our engagement on and after 1.1.1981 and also to confer the benefits to us as casual labourers under the rules and thereafter regularise our appointment to fill up the backlog vacancies meant for Schedule Tribe and Schedule Caste candidates approached the Hon'ble Central Administrative Tribunal by way of filing above noted Original Application.

The Hon'ble Tribunal after hearing the parties to the proceeding at length was pleased to allow the OA directed the applicants to all the Original Applications to submit individual representations before you narrating our grievances within a period of one month from the date of receipt of the order. After filing of the representations. You are directed to examine the respective cases and scrutinize and verify our claims. If we fulfill the requirement. You are directed to consider our cases for

Attested
was
Advocate

13 - 5

absorption against available vacancies as per law and further directed to complete the process within three months from the receipt of the representations. (A copy of judgment and order dated 1.5.2003 passed in OA 43/02 is enclosed herewith).

In view of the facts and circumstances stated above we request your honour to scrutinise and verify our case and thereafter to consider our case for absorption against available vacancies as per direction of the Hon'ble Tribunal.

Thanking you.

Yours faithfully

Sd/-
Suren Ramchiary

*Attested
nsw
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

CP 37/2004 IN O.A.44/2002

Shri Suren Ramchary and 16 Others

Applicants

Versus

Shrimati Pampa Babbar & Another

Respondents

AND

IN THE MATTER OF

Written Statement on behalf of respondent No.2

The answering respondent most respectfully

SHEWETH :

1. That it is humbly submitted that the allegation of contempt of the Hon'ble Tribunal is factually incorrect as will be evident from the fact that the respondents have complied with the Hon'ble Tribunal's orders in both letter and spirit as stated below:-

(a) The Tribunal vide order dated 01.05.2003 directed the petitioners "....to submit representations to the authorities within a period of one month the respondent shall examine the respective cases and scrutinize and verify their claims. If the applicants fulfil the requirement, the authority shall take all the necessary steps for expeditious disposal of the matter and shall complete the process within three month from the receipt of the representations".

(b) It is submitted that all the 17 applicants involved in O.A.44/2002 submitted representations. On receipt of these the respondents got a thorough enquiry conducted at various field offices as well as in the offices of the Branch executives and in the head office. All these carefully conducted enquiries required time. However, every effort was made to ensure that no doubt was left at any stage about the correctness of the results of the enquiry. After carefully conducting the enquiry and on being satisfied about the veracity of the findings, replies were sent to the applicants under registered post A.D. on 18.03.2004 to applicant Nos. 1 to 14 and 17 and on 29.7.2004 to applicant Nos. 15 and 16.

Details of dates on which letters were sent to the applicants are at ANNEXURE A

A copy each of the letters sent on 18.03.2004 and on 29.07.2004 is submitted as ANNEXURE B AND ANNEXURE C respectfully.

... P....2....

P. Babbar

मंडल रेल प्रबंधक
Divl. Railway Manager
पू. सी. रेलवे / N. F. Railway
अलीपुरा जम. मंडल

(2)

17
Bhatia
मंडल रेल प्रबंधक
Divl Railway Manager

(2) That it would be clear from the foregoing that on receipt of the representations from the applicants due care was exercised by the respondents to comply with the order of the Hon'ble Tribunal and the applicants were advised of the decision taken by the respondents, as desired. If some extra time was taken to convey the decision, the same was unavoidable under the circumstances as the process of verification of old records necessarily took time and the same involved careful enquiry at ~~xx~~ many field offices and executive offices.

(3) It is therefore urged that the Hon'ble Tribunal be pleased to condone the unavoidable delay in replies sent to the applicants and dismiss the contempt petition as all the allegations made are false.

(4) That the answering respondents beg to submit that the applicants were sent replies to their representations ~~xx~~ by registered post A.D. and their acknowledgments were also received except from Shri N.C. Boro (No. 17) in whose case the letter was returned with remark "addressee not found". The respondents beg to produce the original records at the time of hearing.

(5) That it is observed that the contempt petition was filed by the applicants much after receipt by them of the reply from the respondents. It is thus clear that knowing fully well that the respondents have complied with the orders of the Hon'ble Tribunal the applicants filed the contempt petition. The applicants are thus guilty of filing a false contempt petition and thus deserve to be punished as per the provisions of law, apart from summary dismissal of the petition as they have caused avoidable harassment to the respondents.

(6) In view of the submissions made hereinabove the contempt petition may kindly be dismissed.

And for this act of kindness the respondents shall as in duty bound ever pray.

....P... 3.....

(3)

VERIFICATION

I, Smti. Pampa Babbar, Wife/~~daughter~~ of Shri. Vinod Babbar, aged about 52 years, at present working as Divisional Railway Manager, Alipurduar Division, N.F. Railway, do hereby verify and solemnly affirm that the statements made in paragraphs 1 to 6 are true to my knowledge derived from records which I believe to be true and the rest are my ~~humble~~ submissions before the Hon'ble Tribunal.

And I sign this verification on this the Second day of November, 2004.

Babbar

Signature

मंडल रेल प्रबंधक

Divisional Manager

पू. सी. रेलवे / N. F. Railway

अलीपुरद्वार जं. / Alipurduar Jn.

Annexure-R-1

A'

OA NO.44/02 – Sri Suren Ramchairy & 16 Others – VS- U.O.I & Others
Date of Court's Order – 1.05.03

Reg:: Name of petitioners' ,date of receipt of their representations and date of disposal of their representation.

SN	Name of the petitioners	Date of receipt of petitioners' representation by the respondent	Date of disposal of petitioners' representation by the respondent.
1.	Sri S. Ramchairy	09.06.03	18.03.04
2	" R. Boro	09.06.03	18.03.04
3	" Mizing Brahma	09.06.03	18.03.04
4	" Rajit Brahma	09.06.03	18.03.04
5	" J. Swargiary	09.06.03	18.03.04
6	" N.C. Basumatary	09.06.03	18.03.04
7	" R.K. Mandal	09.06.03	18.03.04
8	" B. Baishya	09.06.03	18.03.04
9	" A. Das	09.06.03	18.03.04
10	" R.S. Mandal	09.06.03	18.03.04
11	" M. Nurzary	09.06.03	18.03.04
12	" S. Boro	09.06.03	18.03.04
13	" R.C. Boro	09.06.03	18.03.04
14	" B. Baishya	09.06.03	18.03.04
15	" J. Pasi	08-07-03	29.07.04
16	" R. Das	08-07-03	29.07.04
17	" N.C. Boro	09.06.03	18.03.04

 28/9/04

Annexure - B
18/03/04

6
N. F. RAILWAY

REGISTERED WITH A/D

Office of the
General Manager/Con
Maligaon:Guwahati-11

No.F/63/Con/1

Dated:18.03.2004

To

Shri Surendra Ramchandra
S/o Sati Ramchandra
Vill Adabari Kholmatil
P.O. Bulpura
Sonitpur (Assam)


Sub: Hon'ble CAT/GHY's Order in O.A.No. 14/02

Ref: Your application dated 28.2.03

In reference to your above mentioned application the relevant records regarding your claim of being ex-casual labour have been got verified and it is found that the genuineness of your casual labour card is not established.

Hence, your claim for re-engagement in Railway service is rejected without any further correspondence.

Please acknowledge the receipt of the same.


(P. G. Johnson)
APO/Con

For General Manager/Con

RECEIVED
18/03/04
18/03/04



By post Registered with H/O

Annexure - G

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
DIVL. RAILWAY MANAGER (P)
ALIPURDUAR JUNCTION.

No.E/APM/Advocate/Notice/03

July 29, 2004

To

1. Sri Jogindra Pashi
S/o late Chedi Pashi
368/A/Kalibari Col.
Alipurduar Junction.
Dist. Jalpaiguri [West Bengal]

2. Sri Ramji Das
S/o late Sunar Das
Shanti Col.
Near Rly. Qr. No.240/A
Alipurduar Junction.
Dist. Jalpaiguri [West Bengal]

Sub: Compliance of Hon'ble CAT/GHY's Order dated
01-05-03 in OA/44/02- Sri Suren Ramchary
& others Vs. Union of India and others.

In reference to above your appeal dt. 8-7-03 and other relevant records were put up to DPO/APDJ for disposal. After going through the same DPO has passed the following order.

In compliance of Hon'ble CAT/GHY's order dt. 01-05-03 in OA/44/02 I peruse the application dated 8-7-03 and its enclosed relevant papers of Sri Joginder Pashi and Ramji Das. They have claimed to have worked as C.L. in railway as Coal Khalasi between 22-7-75 to 15-11-75, as such their services be regularized. Enquired the factual position of their claims and heard the parties in person. Relevant records not available, the same might have been destroyed during flood of July/1993. Nothing appears from any corner as a proof of their working as casual labour. Moreover, as per school certificate submitted by the parties it is clear that Sri Pashi was of 11 years age [D.O.B. 23-01-64] and Sri Das 14 years age [DOB 19-02-1961] at the relevant periods [1975]. Being minor they must not be engaged as per railway rules. It appears clear that the grievances of the parties are not genuine, the working certificates submitted by the parties appears to be fabricated. Hence grievances/claims of the parties are rejected.

This is for your information.

2
30/07/04

For Divl. Rly. Manager (P)
Alipurduar Junction.

29/7/04

22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF

CP 37/2004 IN O.A.44/2002

Shri Suren Ramchary and 16 Others

Applicants

Versus

Shri N.Ramasubramanian & Another

Respondents

AND

IN THE MATTER OF

Written statement on behalf of respondent No.1

The answering respondent most respectfully

SHEWETH :

1. That it is humbly submitted that Shri N. Ramasubramanian, the then General Manager (Construction), N.F.Railway has since retired from service. It is also humbly submitted that no new appointment has been made in his place so far. The answering respondent therefore seeks kind permission of the Hon'ble Tribunal to submit written statement on behalf of the General Manager, (Construction) as his authorised representative.

2. That it is humbly submitted that the allegation of contempt of the Hon'ble Tribunal is factually incorrect as will be evident from the fact that the respondents have complied with the Hon'ble Tribunal's orders in both letter and spirit as stated below:-

(a) The Hon'ble Tribunal vide order dated 01-05-2003 directed the petitioners "..... to submit representations to the authorities within a period of one monththe respondent shall examine the respective cases and scrutinize 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".

(b) It is submitted that all the 17 applicants involved in O.A.44/2002 submitted representations . On receipt of these the respondents got a thorough enquiry conducted at various field offices as well as in the offices of the branch executives and in the head office. All these carefully conducted enquiries required time. However, every effort was made to ensure that no doubt was left at any stage about the correctness of the results of the enquiry.

..... P 2.....

Dy. Chief Personnel Officer (Con.)
পরিচালক (সহ) জনসংস্কৃতি

After carefully conducting the enquiry and on being satisfied about the veracity of the findings, replies were sent to the applicants under registered post A.D. on 18.03.2004 to applicant Nos. 1 to 14 and 17 and on 29.07.04 to applicant Nos. 15 and 16 as per details given at ANNEXURE A

A copy of the communication sent on 18.03.2004 and on 29.07.2004 each is submitted herewith and marked as

ANNEXURE B AND ANNEXURE C respectively.

3. It would be clear from the foregoing that on receipt of the representations from the applicants due care was exercised by the respondents to comply with the order of the Hon'ble Tribunal and the applicants were advised of the decision taken by the respondents, as desired. If some extra time was taken to convey the decision, the same was unavoidable under the circumstances as the process of verification of old records necessarily took time and the same involved careful enquiry at many field offices and executive offices.

4. It is therefore urged that the Hon'ble Tribunal be pleased to condone the unavoidable delay in replies sent to the applicants and dismiss the contempt application as the allegations made are false.

5. That the answering respondents beg to submit that the applicants were sent replies to their representations by registered post A.D. and their acknowledgments were also received except from Shri N.C. Boro (No. 17) in whose case the letter was returned with remark "addressee not found". The respondents beg leave to produce the original records at the time of hearing.

6. That it is observed that the contempt petition was filed by the applicants much after receipt by them of the reply from the respondents. It is thus clear that knowing fully well that the respondents have complied with the orders of the Hon'ble Tribunal the applicants filed the contempt petition. The applicants are thus guilty of filing a false contempt petition and thus deserve to be punished as per the provisions of law, apart from summary dismissal of the petition, as they have caused avoidable harassment to the respondents.

And for this act of kindness the respondents shall as in duty bound ever pray.

Dy. Chief Executive Officer (Cont.)
 Dy. Chief Executive Officer (Cont.)

(3)

VERIFICATION.

I, Shri AMIBESWAR SAIKIA, son of LATE CHANDRA SAIKIA, aged about 49 years years, at present working as Deputy Chief Personnel Officer / Construction, N.F. Railway, (Construction), Maligaon, do hereby verify and solemnly affirm that the statements made in paragraphs 1 to 5 are true to my knowledge derived from recorss which I believe to be true and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the Second day of October, 2004.



Signature.

Deputy Chief Personnel Officer / Construction

Designation.

উপ মূখ্য কাৰ্মিক অফিচাৰী (নি)

Dy, Chief Personnel Officer (Con.)

পূ.ম.ও. রেল, মালিগাঁও

N.F. Railway, Maligaon

গুৱাহাটী-১১

Guwahati- 781011

OA NO.44/02 – Sri Suren Ramchairy & 16 Others – VS- U.O.I & Others
Date of Court's Order – 1.05.03

Reg:: Name of petitioners' ,date of receipt of their representations and date of disposal of their representation.

SN	Name of the petitioners	Date of receipt of petitioners' representation by the respondent	Date of disposal of petitioners' representation by the respondent.
1.	Sri S. Ramchairy	09.06.03	18.03.04
2	" R. Boro	09.06.03	18.03.04
3	" Mizing Brahma	09.06.03	18.03.04
4	" Rajit Brahma	09.06.03	18.03.04
5	" J. Swargiary	09.06.03	18.03.04
6	" N.C. Basumatary	09.06.03	18.03.04
7	" R.K. Mandal	09.06.03	18.03.04
8	" B. Baishya	09.06.03	18.03.04
9	" A. Das	09.06.03	18.03.04
10	" R.S. Mandal	09.06.03	18.03.04
11	" M. Nurzary	09.06.03	18.03.04
12	" S. Boro	09.06.03	18.03.04
13	" R.C. Boro	09.06.03	18.03.04
14	" B. Baishya	09.06.03	18.03.04
15	" J. Pasi	08-07-03	29.07.04
16	" R. Das	08-07-03	29.07.04
17	" N.C. Boro	09.06.03	18.03.04

28/9/03

Annexure - 'B' 25/3/04

6

REGISTERED WITH A/D

N. F. RAILWAY

Office of the
General Manager/Con
Maligaon: Guwahati-11

No.F/63/Con/1

Dated: 18.03.2004

To

Shri Surew Ramchary
c/o - Sati Ramchary
VIII - Adabari Khelnati
P.O. - Balipara
Sonitpur (Assam)

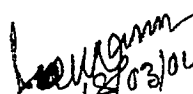
Sub: Hon'ble CAT/GHY's Order in O.A.No. 44/02

Ref: Your application dated 25.5.03

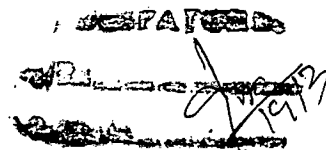
In reference to your above mentioned application the relevant records regarding your claim of being ex-casual labour have been got verified and it is found that the genuineness of your casual labour card is not established.

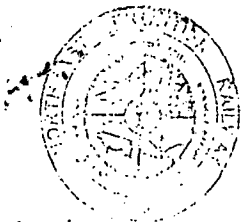
Hence, your claim for re-engagement in Railway service is rejected without any further correspondence.

Please acknowledge the receipt of the same.


(P. G. Johnson)
APO/Con

For General Manager/Con





By post Registered with 17/10

NORTHEAST FRONTIER RAILWAY

OFFICE OF THE
DIVL. RAILWAY MANAGER (P)
ALIPURDUAR JUNCTION.

27
Annexure - e

No. E/APM/Advocate/Notice/03

July 29, 2004

To

1. Sri Jogindra Pashi
S/o late Chedi Pashi
368/A/Kalibari Col.
Alipurduar Junction.
Dist. Jalpaiguri [West Bengal]

2. Sri Ramji Das
S/o late Sunar Das
Shanti Col.
Near Rly. Qr. No. 240/A
Alipurduar Junction.
Dist. Jalpaiguri [West Bengal]

Sub: Compliance of Hon'ble CAT/GHY's Order dated
01-05-03 in OA/44/02- Sri Suren Ramchiary
& others Vs. Union of India and others.

In reference to above your appeal dt. 8-7-03 and other relevant records were put up to DPO/APDJ for disposal. After going through the same DPO has passed the following order.

In compliance of Hon'ble CAT/GHY's order dt. 01-05-03 in OA/44/02 I peruse the application dated 8-7-03 and its enclosed relevant papers of Sri Joginder Pashi and Ramji Das. They have claimed to have worked as C.L. in railway as Coal Khalasi between 22-7-75 to 15-11-75, as such their services be regularized. Enquired the factual position of their claims and heard the parties in person. Relevant records not available, the same might have been destroyed during flood of July/1993. Nothing appears from any corner as a proof of their working as casual labour. Moreover, as per school certificate submitted by the parties it is clear that Sri Pashi was of 11 years age [D.O.B. 23-01-64] and Sri Das 14 years age [DOB 19-02-1961] at the relevant periods [1975]. Being minor they must not be engaged as per railway rules. It appears clear that the grievances of the parties are not genuine, the working certificates submitted by the parties appears to be fabricated. Hence grievances/claims of the parties are rejected.

This is for your information.

2
30/07/04

29/7/04

For Divl. Rly. Manager (P)
Alipurduar Junction.

7/c - 29/7/04