

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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disposed date-19/07/05

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 338/04 OF 199

Applicant(s) D. Ramhang & ors.

Respondent(s) Govt & ors

Advocate for Applicant(s) Ms Usha Das

Advocate for Respondent(s) Rly Counsel

Notes of the Registry

Date

Order of the Tribunal

This application is in form
is filed/C. F. Rs. 50/-
deposited vide IPO/BD
No. 210 G/1137-11
Dated 23/12/04

Dy. Registrar

23.12.2004

Heard Ms. U. Das, learned counsel
for the applicant and also Mr. J.L.
Sarkar, learned counsel for the respond-
ents.

Issue notice to show cause as to
why application shall not be admitted.
List on 28.1.2005 for admission.

Member (A)

Notice & order
sent to D/Section
for issuing to
resp Nos 1 to 3
by regd A/D post.

mb

28.1.2005

The application is admitted, call
for records.

List on 2.3.2005 for orders.

Member (A)

24/01/05.

Notes of the Registry	Date	Order of the Tribunal
	28.1.2005	List on 2.3.2005 for admission.
		Member (A)
	mb	
	28.1.2005	Heard Ms. U. Das, learned counsel for the applicants. The application is admitted, call for the records. List on 2.3.2005 for orders.
		<i>K. Prabhakar</i> Member (A)
	mb	
	2.3.2005	Present: Hon'ble Justice Shri G. Sivarajan, Vice-Chairman Heard Ms U. Das, learned counsel for the applicants. At the request of Dr M.C. Sarma, learned counsel for the respondents the matter is adjourned to 16.3.2005.
		<i>G. Sivarajan</i> Vice-Chairman
	nkm	
	16.3.2005	This case relates to employment of ex casual workers in the Railways and they want assignment of temporary status and regularisation in the respective post alleged to have been held by them. Dr. M.C. Sarma, learned Railway Standing counsel informed this Tribunal that the matter is under process and required some reasonable time. In the circumstances the case is adjourned to 13.4.2005.
		<i>G. Sivarajan</i> Vice-Chairman

15-3-05
S/P- aware that

Notice duly served
on resp Nos. 1, 2 & 3.

29/3/05

12-4-05
No. 1/5 has been
fixed.

13.4.2005

Dr.M.C.Sharma, learned counsel for the Railways submits that in spite of efforts written statement could not be filed and that if some more time is given the same will be filed.

In the circumstance the case is adjourned to 18.5.2005.

Service Completed.

Vice-Chairman

11.5.05

W/s submitted by the Respondents.

bb

18.5.05. Ms.U.Das learned counsel for the applicant submits that she has received the written statement to-day and that she wants to file rejoinder.

post the matter on 15.6.05.

Vice-Chairman

14-6-05

no rejoinder filed

15.6.2005 Post before the Division Bench on 27.6.2005.

Vice-Chairman

① W/s has been filed.

② No. rejoinder has been filed.

mb

27.6.2005 Ms. U. Das, learned counsel for the applicant submits that written statement has already been filed and original records are to be summoned

28.6.05

27.6.2005 Ms. U. Das, learned counsel for the applicant submits that rejoinder has been filed and original records are to be summoned. Dr. M.C. Sarma, learned Railway counsel submits that he may be allowed some time to go through the matter. Post on 14.7.2005. The respondents will get the relevant records also.

Rejoinder filed by the Applicant,

P.S.

13.7.05

Additional rejoinder filed by the Applicant.

P.S.

Vice-Chairman

mb

14.7.2005

Part heard. Post on 19.7.2005.

[Signature]
Member

[Signature]
Vice-Chairman

bb

19.7.2005

Heard learned counsel for the parties. Judgment delivered in open Court kept in separate sheets.

The O.A. is allowed in terms of the order. No costs.

[Signature]
Member

[Signature]
Vice-Chairman

bb

Notes
27/7/05
Mr. M. C. Samuel
Adv.
Rby. Adv.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application Nos. 336, 337 & 338 of 2004.

Date of Order: This, the 19th day of July, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

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 Pradip Sarma
8. Sri Paneswar Boro
9. Sri Nagendra Boro
10. Sri Anil Kalita
11. Sri Bhogi Ram Basumatary

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

..... Applicants in O.A. No.336/2004.

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 Radhe 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 in O.A. No.337/2004.

1. Sri Dhaneswar Rahang
2. Sri Lohit Ch. Boro
3. Sri Rati Kanta Boro
4. Sri Monorangen Dwaimary
5. Sri Manteswar Boro
6. Sri Joy Ram Boro
7. Sri Haricharan Basumatary
8. Sri Durga Ram Daimary
9. Sri Sanjit Boro
10. Shri Khargeswar Swargiary
11. Sri Pradip Kr. Boro
12. Sri Upen Narzary
13. Sri Tarun Ch. Boro
14. Sri Ramesh Ch. Ramchairy
15. Sri Monoranjana Deori
16. Sri Ram Nath Pathak
17. Sri Gopal Basumatary
18. Sri Malin Kr. Das
19. Sri Ranjit Swargiary
20. Sri Ratna Kanta Boro
21. Sri Nirmal Kr. Brahma
22. Sri Monoj Das
23. Sri Mrinal Das
24. Sri Sanjay Kr. Narzary
25. Sri Pankaj Baruah
26. Sri Ajit Kr. Sarania
27. Sri Sunil Ch. Boro
28. Sri Bipin Ch. Boro
29. Sri Nepolin Lahary
30. Sri Rajen Lahary
31. Sri Ansuma Swargiary

32. Sri Suren Daimary
33. Sri Raju Boreh
34. Sri Pradip Das
35. Sri Robin Dwaimary
36. Sri Pradip Boro
37. Sri Chandan Dev Nath
38. Sri Kamaleswar Boro
39. Sri Phukan Boro
40. Sri Krishna Ram Boro
41. Sri Ratneswar Boro

All ex-casual labourers in the Alipurduar
Division, (BB/CON), N.F.Railway.

.....Applicants in O.A. No.338/2004.

By Advocate 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.Railway
Alipurduar.

..... Respondents in all the three O.A.s.

By Dr. M. C. Sharma, counsel for the Railways.

.....

ORDER (ORAL)SIVARAJAN, J.(V.C.) :

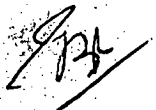
Excepting the fact that the applicants in these three O.A.s are different all of them claim the benefits of a scheme introduced by the Railways for grant of temporary status and subsequent absorption in Group 'D' posts. All these applicants had earlier approached the Tribunal by filing O.A. Nos.259, 44 and 43 of 2002 respectively. This Tribunal disposed of the said O.A.s vide orders dated 25.8.2003, 1.5.2003 and 1.5.2003 respectively (Annexure-5 in O.A.336/2004, Annexure-10 in O.A.337/2004 and Annexure-5 in O.A.338/2004) and the applicants were directed to file fresh representations setting out their respective claims. Accordingly, the applicants filed representations before the concerned respondents. The said representations were disposed of vide substantially identical orders with slight changes dated 18.3.2004 (Annexures 7, 12 and 7 respectively). The claim made by the applicants was rejected. The order passed in few such representations reads as under:

" 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."

The applicants challenged the said orders in these three O.A.s.

2. The respondents have filed separate written statements in all the three cases. Excepting some difference in factual situation, the contentions are similar.




3. We have heard Ms. U. Das, learned counsel for the applicants and Dr. M. C. Sharma, learned Railway counsel for the respondents. Ms. U. Das has submitted that all the applicants were in fact engaged as casual labourers before 1981 and that there is clear evidence with the respondents in regard to the said engagement. She also contends that the Railway authorities have issued identity cards which would also reveal that the applicants were ex-casual labourers of the Railways. Counsel submits that the applicants fulfill all the conditions stipulated in the scheme for assignment of temporary status and for their subsequent absorption in Group 'D' posts. Counsel also points out that the respondents in their written statements have admitted the engagement of eight casual labourers and so far as the applicant no.1 in O.A.336/2004 the earlier order passed by this Tribunal in O.A. No.259/2002, para 3 there of clearly indicates that he was also an ex-casual labourer employee. She also relies on the communication dated 16.3.2004 issued by the Deputy Chief Engineer (Con), N.F.Railway, Jogighopa to the General Manager/Con, N.F.Railway, Maligaon (Annexures-11 in O.A. Nos. 336/2004, 338/2004 and Annexure-15 in O.A.No.337/2004) which clearly states that many of the applicants' claim are found in order. Counsel, in short, submits that all the applicants are entitled to be absorbed in Group 'D' post under the Railways.

4. Dr. M. C. Sharma, Railway counsel has relied on various averments made in the written statement and submits that the applicants had never attempted to establish their claim for availing the benefits under the scheme in the 80's and if the applicants, as a matter of fact, had any genuine claim, they should have approached the Railway authorities then and there. Counsel submits that so far as

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the claim of the applicants is concerned, it is more than twenty five years gone and that if at all there is any valid claim it is lost by limitation. Dr. Sharma also points out that the respondents cannot be expected to keep all the records relating to the engagement of casual labourers made in the 80's even today. Counsel points out that the various documents relating to the engagement of the applicants are at present not traceable. Dr. Sharma also points out that so far as the casual labour live register is concerned, the original is not traceable and trust cannot be made on the xerox copies of those documents without being verified with the original. He further submits that the identity cards which were produced by the applicants were got verified and it is found that the signature of the issuing authority available in the identity cards do not match with the admitted signatures of the officers who are stated to have issued the same. He also submits that at that relevant time those officers were not employed in the division in which the applicants were alleged to have been engaged. He further submits that in the absence of any authenticated material produced by the applicants to substantiate their claim for absorption respondents cannot be directed to absorb them in the Railways. Dr. Sharma also points out that large scale manipulations were being made from certain corners in the matter of absorption of casual labourers under the scheme. He, in support, has referred to and relied on the decision of the Calcutta Bench of Central Administrative Tribunal in O.A. No. 915 of 1998. Counsel accordingly submits that the applicants' claim for benefits of the scheme cannot be sustained.

5. As already noted, the applicants had earlier approached this Tribunal by filing O.A. No. 259, 44 and 43 of 2002 and this



Tribunal had disposed of the said applications by directing the applicants to make representations before the Railways. We find that the Tribunal had specifically considered the contention of the respondents that the claim of the applicants is highly belated. The Tribunal observed that when similarly situated persons have earlier approached the Tribunal and obtained reliefs and were absorbed the applicants cannot be denied the benefits, if they are really entitled to, on the ground of delay. It was further observed that 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 reliefs. The Tribunal, however, observed that ends of justice will be met if a direction is issued on the applicants also to submit their representations giving details of their services and narrating all the facts within a specified time and if such representations are filed within the time, respondents shall examine the same as expeditiously as possible and take appropriate decisions thereon within the specified time. The applicants pursuant to these directions made representations. One such representation is Annexure-6 in O.A. No.336/2004. We are sorry to note that the respondents had dealt with the matter in a very casual manner by passing the impugned orders all dated 18.3.2004. The orders only say that the genuineness of the casual labour cards is not established. It is not clear as to whether the applicants were afforded an opportunity by the Railways for establishing the genuineness of the casual labour cards. There is no averment in the written statement in this respect. Further, there is no case for the Railways that they have ascertained the genuineness of the casual labour cards from the officers who are stated to have



issued the cards. From the written statement and from the submission of Dr. Sharma it is clear that the names of the persons who have issued the casual labour cards were very much known to the Railways. Why in such a situation, no such step was taken to verify the genuineness of the casual labour cards with those officers is anybody's guess. We do not want to further comment on the conduct of the Railways. Dr. Sharma has placed before us the identity cards, the records of the officers who had issued the identity cards and also the records containing the xerox copies of the casual labour live register. We have perused the said records. We do not want to say anything with regard to the identity cards i.e. as to whether they are genuine and were issued during the relevant period and why the Railways did not make any effort to ascertain its genuineness through the officers who are stated to have issued those cards. For our purpose, the extract of the xerox copies of Casual Labour live register is sufficient.

6. Now, on the question whether the xerox copies of the Casual Labour live register can be relied, respondents have taken a stand in the written statements that unless the details contained in the xerox copies are verified with the original it cannot be relied. The respondents at the same time do not have the original of the Casual Labour live register. How it is missing is neither clear nor stated. Now, coming to the xerox copies of the Casual Labour live register, on perusal of the records, we find the reason for taking such photocopies in a communication dated 5.1.1989 issued by the Executive Engineer/BG/CON, N.F. Railway, Bongaigaon to the Deputy Chief Engineer/CON, N.F. Railway, Jogighopa. It is stated therein that 463 surplus ex-casual labours had to be re-engaged and therefore after

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holding discussions with the relevant organization the letter is sent along with xerox copies of the "Casual Labour Live Register" for suitable and necessary action by the Deputy Chief Engineer. Xerox copies of the said document are available in the records maintained by the Railways. From the above it can be assumed safely that the xerox copies represent the original and it is maintained in the regular course of business of the Railways. It is surprising, when the xerox copies of the casual labour live register along with the letter dated 5.1.1989 is in the records maintained by the Railways, how they could say in the written statement "For obvious reasons, these records could not be relied upon as authentic due to the fact that such materials are capable of being manipulated due to the high stakes involved." On this aspect also, we do not want to make further observation which may eventually damage the reputation of the persons who made such bald statements.

7. Now, coming to the matter on merits the respondents are in possession of records (xerox copies of the live register) containing the details of the applicants. Of course some of the applicants do not find a place in the said records also. In respect of applicant no.1 in O.A.336/2004 the earlier written statements filed by the Railways in O.A.259/2002 and referred to in Annexure-5 judgment in O.A.336/2004 the following observations occurs:-

"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."

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15- 8. As already noted, the only reason for rejecting the claim of the applicants is that the casual labour identity cards produced by the applicants the genuineness of which is doubtful. In the circumstances, as already discussed, the respondents are directed to consider the case of the applicants ignoring the identity cards and based on their own records namely, the xerox copies of the casual labour live register, the documents with reference to which the earlier written statements were filed and extracted hereinabove and to take a decision in the case of the applicants in all the three cases afresh within a period of four months from the date of receipt of this order. For the said purpose, the impugned orders all dated 18.3.2004 (Annexures-7 in O.A. Nos.336/2004 and 338/2004 and Annexure-11 in O.A. No.337/2004) are quashed. The concerned respondent will pass reasoned orders on merits as directed hereinabove.

9. Before parting with, we would also like to refer to the decision of the Hon'ble Supreme Court in Ratan Chandra Samanta & Ors. vs. Union of India & Ors., 1994 SCC (L&S) 182 relied on by Dr. M. C. Sharma. The said decision was rendered in Writ Petition (Civil) filed under Article 32 of the Constitution of India. In that case the applicants who were ex-casual labours in South Eastern Railways alleged to have been appointed between 1964-69 and retrenched between 1975-78 had approached the Supreme Court for a direction to the opposite parties to include their names in the live casual labourer register after due screening and to give them re-employment according to their seniority. Supreme Court rejected the said Writ Petition stating that no factual basis or any material whatsoever prima facie to establish their claim was made out in the Writ Petition. The contention that the petitioners therein will produce all the documents

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before the authorities, in the above circumstances, was repelled. The said decision is not applicable in the instant case for the reason that there are necessary averments in the representation filed by the applicants and necessary materials are also available in the records maintained by the Railways.

The O.A.s are allowed as above. In the circumstances, there will be no order as to costs.

Sd/ VICE CHAIRMAN

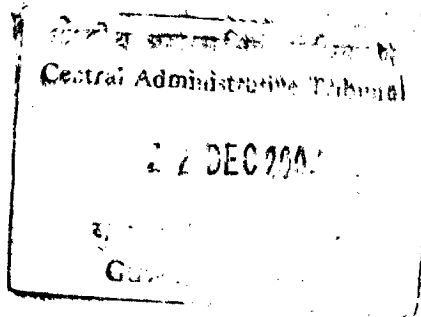
Sd/ MEMBER (A)

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SYNOPSIS

The applicants are ex-casual worker under Railway. All of them were engaged on or before 1981. They worked in various places under Alipurduwar Division as Khalasi. The applicants during their service tenure made request to the concerned authority for their conversion to regular employee and accordingly and the concerned authority took up their cases for conversion to regular employee by conferring temporary Status as per law. Suddenly the respondents instructed the applicants verbally not to attend office any more. Even after such discharge the applicants continued to perform their duties with some artificial breaks.

As per rule the respondents are duty bound to maintain a line register of the casual and ex-casual workers to provide work as per their seniority. In the instant case neither the Respondents nor the applicants have been provided regular work as per their seniority. Non-maintenance of such register deprived the applicants their due claims of regularisation. Hence this application.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Title of the case :

O.A. No. 338 of 2004

BETWEEN

Shri D Rahang & Ors. Applicants.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : Asha Das

Regn.No.:

File : WS7/drahang

Advocate

Date :

Filed by
the applicants through
Alsha Das,
Advocate
22/12/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A.No...../04

BETWEEN

1. Sri Dhaneswar Rahang,
 2. Sri Lohit Ch Boro.
 3. Sri Rati Kanta Boro.
 4. Sri Monorangen Dwaimary.
 5. Sri Manteswar Boro.
 6. Sri Joy Ram Boro
 7. Sri Haricharan Basumatary
 8. Sri Durga Ram Daimary
 9. Sri Sabjib Boro
 10. Shri Khargeswar Swargiary
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 29. Sri Nepolin Lahary
 30. Sri Rajen Daimary
 31. Sri Ansuma Swargiary
 32. Sri Suren Daimary
 33. Sri Raju Borah
 34. Sri Pradip Das
 35. Sri Robin Dwaimary
 36. Sri Pradib Boro
 37. Sri Chandan Dev Nath
 38. Sri Kamaleswar Boro
 39. Sri Phukan Boro
 40. Sri Krishna Ram Boro
 41. Sri Rateneswar Boro.
- All Ex-Casual Labourers in the Alipurduwar
Division, (BB/CON), N.F.Railway.

....Applicants.

- versus -

DR.

2p

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),
Alipurduwar Division, N.F.Railway,
Alipurduar.

...Respondents

DETAILS OF APPLICATION

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

This application is directed against the identical
order dated 18.3.84 passed by the APO/Con for General
Manager/Con to the applicants.

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of
the application is within the jurisdiction of this Hon'ble
Tribunal.

3. LIMITATION

The applicant further declares that the
application is filed within the limitation period prescribed
under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

4.1. That the applicants are citizens of India and
permanent residents in the State of Assam and as such they
are entitled to all the rights, protections and privileges
guaranteed under the Constitution of India. The applicants

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belong to the Scheduled Caste and Scheduled Tribe Community and as such are entitled to the Special privileges guaranteed under the Constitution of India & the laws framed thereunder.

The applicants are all Ex-casual Labourers and their grievances, subject matter and the relief sought for in this application are similar in nature. Therefore, the applicants crave leave of the Hon'ble Court to allow them to join together in a single petition, invoking its power under Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.2. That the applicants on being selected were engaged by the Respondents as Casual Mazdoors. The applicants joined their duties on various dates and discharged the responsibilities entrusted on them to the best of their ability and without blemish to any quarter. During their service under the Respondents, the applicants acquired the eligibility for conferment of the benefits of Temporary status as well as other benefits admissible under the law.

4.3. That the applicants who belonging to the most economically backward sections of the society discharged their duties under the Respondents without any blemish and from the earning so derived by them, they some how managed to maintained their families. Poised thus the applicants were discharged from their respective services, on different dates by the Respondents. The applicants who were not in the know how about their rights and the protections available to

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them against the arbitrary action on the part of the Respondents, could not protest against the same. The modus operandi adopted by the Respondents was that the applicants were verbally asked not to come to work and no written order were issued in this connection. Even after discharge from their services, the applicants continued to serve under the Respondents in various projects launched by the authorities.

4.4. That your applicants state that a procedure is in vague in the Railways wherein a live Register is maintained incorporating therein the names of all casual Mazdoors in order of seniority. Names of discharged employees also find place in the said register and future vacancies in Grade-D posts are filled up from this live Register and the persons whose names figure in the said Register is to be given preference. By virtue of their service under the Respondents the names of the applicants also must figure in the Live/Supplementary Register.

4.5. That your applicants state that upon pressure being mounted upon the Respondents by various organizations engaged in fighting for the rights of the applicants and the repeated pleas made by a few of the applicants and similarly situated persons, the respondents in order to clear the back log of SC/ST in Group 'D' a special recruitment drive was initiated. As directed the applicants preferred individual applications expressing their willingness for being considered for being appointed against any Group-IV post. Basing upon the applications so received a list of such persons was prepared. In the said list the service

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particulars of the persons concerned were also furnished. Further a supplementary list was prepared wherein the names of the applicants and their service particulars were mentioned. Mere perusal of the statement showing the service particulars of the applicants would go to show that the applicants had the requisite number of working days entitling them to the benefits of Temporary status and regularisation.

A copy of the said statement is annexed hereto as Annexure-1.

4.6. That on receipt of applications from persons similarly situated like the applicants, it was noticed that some of them belonged to the Construction wing of the Railways and as such correspondences were made with the concerned authority of the said wing for furnishing necessary information, for consideration of their cases for absorption against the available Group-IV posts. Although amongst the applicants there exists a person who had served under the construction wing no steps were taken for getting their service particulars confirmed. The whole exercise was carried out in a pick and choose manner.

4.7. That after verification and cross verification the office of the Respondent No.2, confirmed the service particulars of the persons referred to them. As the names of the applicants were not forwarded to the said wing they were denied of an opportunity of having their service particulars confirmed and thereby have an opportunity of being considered for appointment on regular basis.

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4.8. That your applicants state that the service particulars of similarly situated persons were confirmed by the Respondent No.2 and their cases were processed for grant of Ex-post facto approval by the General Manager. The applicants were assured that the same process. That after the aforesaid development, the would be initiated in their cases shortly. Basing on the assurances given to them from time to time the respondents were under legitimate expectation that their access for appointment on regular basis would be processed shortly by the respondents.

4.9. That against the back drop of the said facts, few of the Ex-casual labourers who were similarly situated like the applicants approached this Hon'ble Tribunal by way of an O.A. being O.A. No.79/96 interalia praying for a direction for their absorption against the back log vacancies available for SC/ST candidates. This Hon'ble Tribunal upon hearing the parties was pleased to dispose of the said original application with a direction to the Respondents to consider the case of the applicants, and to take a decision as regards their appointment within the time limit specified therein.

A copy of the order dated 11.1.99 is
annexed hereto as Annexure-2.

4.10. That your applicant states that the applicants in O.A. 99/96 preferred representations as directed by the same were not attended to. To Respondents in

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the month of December, 1999 issued call letters to persons similarly situated like the applicants on pick and choose basis, for attending a Screening for absorption against a Group 'D' post. But the applicants whose names also figured in the said list were not issued with any call letters and were kept in dark about the said process. The whole exercise was carried out behind the back of the applicants.

4.11. That your applicant states that although they are similarly situated with the applicants in the O.A. 99/96 their case were not considered in the Screening held and as such they were deprived of an opportunity for consideration of their cases for appointment on regular basis under the respondents. The persons who were called for screening, were selected for appointment against Grade 'D' posts. This aspect of the matter would be clear from mere perusal of the memorandum dated 21.4.2000 issued by the Respondent No.3. Be it stated here that amongst the persons so selected include persons who had joined their services under the respondents along with the applicants and/or were junior to the applicants and as such the applicants were discriminated against.

A copy of the said letter dated
21.4.2000 is annexed hereto as
Annexure-3.

4.12. That your applicant states that the persons screened and selected vide Annexure-7 memorandum dated 21.4.2000 have appointed against vacancies available in Group 'D' posts and for this necessary post facto approval

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was also granted by the G.M., N.F. Railways. But the applicants who were similarly situated were deprived of this benefit.

4.13. That the applicants on coming to learn about the deprivation being meted out to them as regards their appointment, took up the matter with the All India Scheduled Caste and Schedule Tribes Railway Employees Association, who in turn brought the deprivation being meted out to the applicants to the National Commission for SC and ST. The organizations fighting for the rights of the applicants to the National Commission for SC and ST. The organizations fighting for the rights of the applicants, have all along been requesting the respondents to take steps for appointing all the Ex-casual labourers on regular basis. Be stated here that the names of the applicants were also recommended and submitted by the organizations fighting for the rights of the applicants.

4.14. That your applicants state that inspite of repeated request from the organizations involved for getting justice to the applicants, the Respondents have failed to take action for considering the case of the applicants in tune with the consideration done in case of 49 similarly situated persons. Due to discriminatory attitude adopted by the Respondents the applicants continue to suffer.

4.15. That your applicants state that there is no dispute as regards 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

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appointed against any Group-IV vacant posts, it was incumbent upon the respondents to take necessary steps for considering the cases of the applicants for such appointment. The pick and choose method adopted by the respondents in this connection has resulted in the applicants being discriminated against.

4.16. That pending consideration of the case of the applicants, the Respondents have issued an advertisement inviting application from fresh candidates for filling up vacant post of Track man, under a special recruitment drive for SC & ST. A total of 595 vacancies have been advertised. The applicants who are ex-casual labourers are entitled to preference in matters of appointment. The Respondents ought to first clear the list of Ex-casual labourers and thereafter are required to consider the case of fresh candidates.

A copy of the said advertisement is
annexed hereto as Annexure-4.

4.17. That your applicants state that aggrieved by the action of the Respondents for non-consideration of the cases of the applicants, the applicants preferred original application No.44/02 praying for a direction towards the Respondents to consider their cases for any Group-D post and to appoint them against vacant group-D posts available for filling up SC/ST backlog vacancies. The applicants also made prayer for a direction to the General Manager N.F.Railway, Maligaon to issue necessary approval towards the appointment of the applicants.

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That applicants state that the Hon'ble Tribunal after hearing both the parties was pleased to disposed of the said OA directing the applicants to submit their representation 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 the order and after filing such representations within that time the respondents shall exercise 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.

A copy of the judgment and order dated 1.5.2003 passed in OA No.44/02 is annexed herewith and marked as Annexure-5.

4.18. That the applicants beg to state that the applicants filed their detailed representations narrating their grievances within the time prescribed the this Hon'ble Tribunal. But when they have not received any information from the Respondents they preferred Contempt Petition No.37/04 before this Hon'ble Tribunal. During pendency of the Contempt petition the applicants came to know about the impugned order dated 18.3.04 by which the APO/con for GM/Con has rejected their claims on the ground that the genuineness of their casual labour card was not established.

Copies of representations dated 25.5.03 and the impugned order dated

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18.3.04 are annexed herewith and marked as Annexure- 6 & 7 respectively.

4.19. That the applicants beg to state that the chief personnel officer/IR for General Manager (P) issued a letter to the CE/Con-II/MLG bearing No.E/57/2/11(E) Loose dated 17.3.04 by which requests has been made to examine the issue of regularisation of Group of Casual Labourers in APDJ division (Under construction) and take appropriate action without further delay. An advise had been sought for action taken so as to apprise Railway Board with reference to the pending MR reference.

A copy of the order dated 17.3.04 is annexed herewith and marked as Annexure-8.

4.20. That the applicants to state that the in response to the letter dated 17.3.04 the chief Engineer/Con/II, for General Manager(P), N.F.Railway, Maligaon. By the said letter bearing NO.E/63/Con/I dated 25.3.04 the CE/CON/II informed the GM(P), N.F.Railway, Maligaon that on getting the Central Administrative Tribunal's direction in OA No.43/02 and 44/02, individual applicants were asked to submit documents/casual labour cards in support of their claim of having worked in the Railway, accordingly the applicants furnished/submitted aforesaid documents. He further stated that the documents had been got verified by WLI/Con and Dy.CE/Con/JP2 to

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ascertain/establish the genuineness of the claims.

This is also informed that both WLI/Con/MLG and Dy.CE/Con/JP2 have given the report that though the names of the applicants were found available in the documents but the signatures as appearing in the casual labour cards are not tallying and on the basis of aforesaid reports, the individual applicants of the OAs had since been informed by the office vide letter No.E/63/Con/I dated 18.3.04 that genuineness of the claim could not be established hence the case is rejected.

A copy of the said letter dated 25.3.04 is annexed herewith and marked as Annexure-9.

4.21. That the applicants beg to state that the applicants could obtain a copy of the order bearing No.E/227/ESV/(E) AP dated 30.3.04 issued by the A.P.O./II for Divisional Railway Manager(P) Alipurduwar Junction to the General Manager (P), N.F.Railway/Maligaon intimating the fact due to non-availability of sufficient documents the cases of the applicants could not be verified. And also apprised the fact that though assurance given by the GM/Con/MLG to send all the available documents had been advised to approach to take more time from the Central Administrative Tribunal, Guwahati.

A copy of the aforesaid letter dated 30.3.04 is annexed herewith and marked as Annexure-10.

4.22. That your humble applicants beg to state that the applicants some how could collect the copy of the report of verification of documents/records submitted by the Dy.Chief Engineer (Con), N.F.Railway, Jogighopa before the General Manager/Con, N.F.Railway, Maligaon by the letter bearing No.E/74/4/JP2/(CAT) dated 16.3.04. An extract of the said letter has been quoted below.

"1. Case No.OA No.43/2002(41)

i. From the report of WLI/CON/MLG dated 13.2.04, it is seen that working period of the ex-casual G/Man were in between 1984 to 1989 (April/89), while JPZ project office was established at JPZ in connection with Rail-cum-Road bridge construction. No such ex-casual G/man as quoted in the report was engaged in the JPZ project so far.

ii. On verification the Bio-data's of casual Labour Register (Xerox) of XEN/BG/CON/BNGN as available, the Data's (DOB, DOA & DOD etc) of ex-casual staff found seems to be correct.

iii. Regarding the genuineness of claim of individual cases, it is stated that there is no scope to examine the signature of officers concerned as no original documents/signature of the concerned officers who signed in the CL cards are available in this office record as XEN/CON/BNGN was not under Brahmaputra bridge construction at JPZ project.

Hence no comments regarding genuineness.

A copy of the said letter dated 16.3.04 is annexed herewith and marked as Annexure-11.

4.23. That the applicants begs to state that the action of the Respondents in passing the impugned order dated 18.3.04 is per se illegal arbitrary and violative of natural justice. The Respondents did not give any personal hearing at the time passing the order. The names and service particulars are found in the records only the signatures were not tallying with the signatures in the representations. It is obvious that a signature of a person will not tally with a signature sign around 15 years ago. The Respondents being a model employer must give a personal hearing all the applicants before passing the impugned order. Since the service particular of the applicants are found on the Respondents ought not to have passed the aforementioned impugned order basing only on signature of the applicants which they put 20 years ago.

4.24. That the applicants beg to state that the method which has been adopted at the time of disposing of the representations filed by teh applicant is not at all sustainable and liable to be set aside. The Respondents at the time of disposing of the representations of the only taken into applicants consideration the signature found on the records not the service particulars. The applicants most humble beg to state that since they are not engage with paper works and they were disengaged long back were the

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signatures may not tally with the signatures found in the records. Since the records contained the identity card along with photograph so the respondents must first take into consideration the photograph of the applicants and must give personal hearing.

4.25. That the applicants beg to state that the Respondents themselves have admitted that the name and Bio-data of the applicants as mentioned in the verification report of WLI/CON/MLG are found to be in order so far, (as per casual labour Register of XEN/BG/CON/BNGN). Also admitted by the Respondents that after verification the casual labour service cards of the applicants and same were seem to be in order, but could not be confirmed about the genuineness, since no original records for cross-check in this connection were available in that office. The applicants most humbly beg to submit that it is the duty of the respondents to keep the records of the casual labour. It is also submits that the report of the verification is itself contradictory and same is not sustainable in the eye of law.

4.26. That the applicants beg to state that the process of selection pursuant to the Annexure-9 advertisement is almost completed and the 595 posts are sought to fill up those within a very short time. As such the applicants pray that Your Lordships would graciously be pleased to pass an interim direction not to fill up the posts till finalisation of this application. In event of not granting the interim order as prays for than the applicant

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will suffer irreparable loss and injury.

4.27. That in the event of your Lordships being pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicants inasmuch as they are entitled to be absorbed against the available Group 'D' posts and further no appointments have been made in pursuance to the Annexure-9 advertisement till date.

4.28. That in the event Your Lordships being pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicants inasmuch as they are entitled to be absorbed against the available Group 'D' posts and further no appointments have been made in pursuance to the Annexure-9 advertisement till date.

4.29. That this application has been filed bonafide for securing the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the action of in passing the impugned order dated 18.3.04 is illegal, arbitrary and violative of natural justice, hence same is liable to be set aside and quash.

5.2. For that the Respondents are duty bound to till up

the ST/SC back log vacancy by the Ex-casual labourers. In not doing so they have advertised those posts and sought to fill up those posts from open market without first considering the cases of the applicant is not at all sustainable and same is liable to be set aside and quash.

5.3. For that the procedure adopted by the Respondents in disposing of the representation without taking into consideration the records found at the time of verification and the rejection of their claim on the ground genuineness is not at all sustainable in the eye of law as same has been done without giving personal hearing to the applicants violating the natural justice of the applicants hence same is liable to be set aside and quash.

5.4. For that in any view of the matter the impugned action on the part of the authorities in denying to the applicant their due appointments is in clear violation of the Principles of Natural Justice in addition to being arbitrary, illegal and discriminatory.

5.5. For that the applicants being ex-casual labourers of the Respondents and their names being available in the leve/supplementary Register they are entitle to the benefits under the Rules and the Respondents can not discriminate between similarly situated persons.

5.6. For that the Respondents can not take advantage of the fact that the applicants belong to the lowest stratum of the society and their ignorance of their rights. All of them

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being members of ST community are entitled to special privileges.

5.7. For that similarly situated persons having already been considered for appointment and the applicants also being similarly placed cannot be deprived of an opportunity of consideration of their services.

5.8. For that in any view of the matter the impugned action on the part of the respondents is not maintainable and the applicants are entitled to the reliefs prayed for.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant prays that this application be admitted,

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records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

8.1. To set aside and quash the impugned order dated 18.3.04 as same is violative of natural justice and not sustainable in the eye of law.

8.2. To direct the Respondents to consider the cases of the applicants and appoint them against vacant Group-D posts available for filling up of SC/ST backlog vacancies.

8.3. To direct the respondents to keep 17 posts vacant till consideration for appointment of the applicants.

8.4. To set aside and quash the action of the Respondents in advertising the posts vide Annexure-9 advertisement without first considering the cases of the applicants is not at all sustainable in the eye of law and as the same is violative of Article 14 and 16 of the Constitution of India.

8.5. To direct the General Manager N.F.Railway, Maligaon to issue necessary approval towards the appointment of the applicants.

8.6. Cost of the application.

8.7. Any other relief/reliefs that the applicant may be entitled to.

9. INTERIM ORDER PRAYED FOR:

The applicants pray for an interim direction to the respondents not to fill up the vacancies advertised vide Annexure-9 advertisement without first considering the cases of the applicants till finalisation of this OA.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

- (i) I.P.O. No.: 20 G 1137 11
- (ii) Date: 29/9/04
- (iii) Payable at: Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Dhaneswar Rahang, aged about 32 years, son of J. Rahang, presently residing at Village Hakalpara, Dist-Kokrajhar, Assam, in the district of Kamrup, Assam, do hereby solemnly affirm and state that the statement made in this petition from paragraph 2, 3, 4'1, 4'2, 4'3, 4'4, 4'6, 4'7, 4'8, 4'10, 4'12-4'15, 4'23-4'28 & 5 to 7 are true to my knowledge and those made in paragraphs 1, 4'5, 4'9, 4'11, 4'16-4'22 are matters of records of records information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I am the applicant No 1 in the present application and I am well acquainted with the facts of the case and I have been authorised by the other two applicants to swear this verification.

And I sign this verification on 20th day of Dec 2004.

Dhaneswar Rahang

Sl. No.	Name S/No.	Father's Name	Date of Birth	Date of Appoint.	Date of Discharge	Date of Address for Communication
1	2	3	4	5	6	7
1	Dhaneswar Rahang	Janta Rahang (ST)	03-02-67	01-06-85	31-08-85	Vill. Hekaipare, P.O. Chandrapara Dist. Kokrajhar, Assam.
2	Lohit Ch. Boro	Bhulo Ram Boro (ST)	05-06-67	02-05-86	23-11-86	C/O Sujana narzary, Vill. Hasraw bari, P.O. Ramphalbill, Dist. Kokrajhar Assam.
3	Rati Kanta Boro	Phukan Boro (ST)	05-06-67	02-05-86	23-11-86	C/O Gobinda Basumatary, Vill. Tangapara, Ward No. 5, P.O. & Dist. Kokrajhar, Assam
4	Monoranjan Dwaimary	Jabla Dwaimary (ST)	07-03-65	01-05-85	31-12-85	C/O Binesh Dwaimary, Vill. Nalbari, P.O. Udalguri, Dist. Darrang, Assam.
5	Manteswar Boro	Aba Ram Boro (ST)	07-03-65	01-05-85	31-12-85	C/O Uttam Narzary, Vill. Ranighat P.O. Simbargaon, Dist. Kokrajhar, Assam.
6	Joy Ram Boro	Manda Boro (ST)	20-02-67	01-04-84	31-12-84	Vill. Nakhali, P.O. Dwarkuchi, Dist. Kamrup Assam.
7	Haricharan Basumatary	Jogen Basumatary (ST)	17-02-65	03-05-83	31-12-84	C/O Niren Basumatary, Vill. Badagaon, P.O. Mazkuthi Dist. Darrang, Assam.
8	Durga Ram Dwaimary	Mayaram Dwaimary (ST)	03-07-65	01-05-84	31-12-84	C/O Mantu khaklary, Vill. Dagar Makha, P.O. Tamulbari Dist. Darrang, Assam
9	Sanjib Boro	Bhanu Boro (ST)	17-03-66	07-05-85	31-12-84	C/O Niranjan narzary, Vill. phuthaigaon (Shalbari) P.O. Aflagaon, Dist. Kokrajhar.
10	Khargeswar Swargiary	Gauranga Swargiary (ST)	01-02-67	13-05-85	11-04-86	C/O Nagen Basumatary Vill. Namanigaon, P.O. Rangapara, Dist. Sonitpur Assam.
11	Pradip Kr Boro	B Boro (ST)	31-03-70	03-02-88	11-01-89	Vill. Shalbari, P.O. Aflagaon, Dist. Kokrajhar, Assam
12	Upen Narzary	Hadang Narzary (ST)	31-12-68	03-05-87	31-12-87	Vill. Tengapara, Ward No. 5 P.O. & Dist. Kokrajhar, Assam.

The Supplementary List which was limited on 5-2-

1	2	3	4	5	6	7
13	Tarun Ch. Boro	Bimal Boro (ST)	03-06-67	03-05-86	31-12-87	C/O. Tilak Ch. Boro, Vill. Ambari, P.O. Dwarkuchi, Dist. Kamrup, Assam.
14	Ramesh Ch. Ramchiary	N. Ramchiary (ST)	01-03-70	03-02-88	20-01-89	Vill. No. 2, Liching Balipara, P.O. Ambagaon, Dist. Darrang Assam, Pin - 784510
15	Monoranjan Deory	Bhuban Deory (ST)	11-11-67	15-03-86	31-12-86	Vill. Pachim Sitta, P.O. Rangia, Dist. Kamrup, Assam
16	Ram Nath Pathak	Dinadayal Pathak (SC)	04-06-67	13-06-86	31-12-86	C/O. Rabindra Pathak, Vill. Teteliguri, Station Road, Rangiya, P.O. Rangiya, Dist. Kamrup, Assam.
17	Gopal Basumatary	Bijoy Basumatary (ST)	05-07-66	01-11-85	30-04-86	Vill. Kargaon, P.O. Kargaon, Dist. Kokrajhar, Assam.
18	Malin Kr. Das	Bandhu Ram Haloi (SC)	01-09-68	01-02-87	31-12-87	Vill. Rampur, P.O. Rampur, Dist. Barpeta (Assam).
19	Ranjit Swargiary	Bali Ram Swargiary (ST)	05-03-68	01-02-87	31-12-87	Vill. Dakhin Bencimary, P.O. Amingaon (Joradong), Dist. Nalbari, Assam.
20	Ratna Kanta Boro	Jadav Ch. Boro (ST)	01-03-67	03-04-86	31-12-87	Vill. Ahatguri, Cherial para, P.O. Khoirabari, Dist. Darrang, Assam
21	Nirmal Kr. Brahma	Sarbeswar Brahma (ST)	02-09-70	03-02-88	20-01-89	Vill. Habrubari, P.O. Dhaligaon, Dist. Bongaigaon, Assam.
22	Monoj Das.	Hiranmoy Das (SC)	01-09-68	01-11-86	30-04-87	Vill. Bangali Basti, P.O. Rangapara, Dist. Sonitpur, Assam.
23	Mrinal Das.	Madhab Das. (SC)	01-03-67	03-05-86	31-12-87	C/O. P.R. Sutradhar, Vill. Rangapara Town, Ward No. 2, P.O. Rangapara, Dist. Sonitpur, Assam
24	Sanjoy Kr. Narzary	Kalicharan Narzary (ST)	01-02-68	03-05-86	13-12-87	Vill. Chutiapara, P.O. Geruwa- Lalpul, Dist. Darrang, Assam.
25	Pankoj Baruah	Bhuban Baruah (UR)	01-02-67	03-05-86	13-12-87	Vill. Namanigaon, P.O. Thakurbari, Via Rangapara, Dist. Sonitpur, Assam

Contd-3/-

The Supplementary List which was submitted

1	2	3	4	5	6	7
26.	Ajit Kr. Sarania	Prabin Ch. Sarania (ST)	21-11-67	15-03-86	31-12-86	Vill. Madhabdev Nagar, P.O. Gotanagar, Gurwahati- 33
27.	Sunil Ch. Boro.	Khargeswar Boro (ST)	01-03-68	03-05-86	31-12-87	Vill. Singimari, P.O. Khoirabari. Dist. Darrang, Assam
28.	Bipin Ch. Boro.	Kula Ram Boro (ST)	17-03-68	01-03-86	15-10-88	Vill. Namanigaon, P.O. Rangapara Dist. Sonitpur, Assam
29.	Nepolion Lahary.	Subiram Lahari (ST)	02-03-68	03-05-86	31-12-87	Vill. Jorpukhuri, P.O. Mezengjuli. Dist. Sonitpur, Assam Pin-784111
30.	Rajen Dwaimary.	Puwal Dwaimary (ST)	03-03-68	02-04-86	31-12-87	Vill. Bihmani, P.O. Bihmani, Dist. Sonitpur, Assam
31.	Ansuma Swargiary.	Nabin Swargiary (ST)	03-01-68	02-04-86	31-12-87	Vill. Jogmani, P.O. Nizdefeli. Dist. Nalbari, Assam
32.	Suren Dwaimary.	Budheswar Dwaimary (ST)	03-11-68	02-04-87	31-12-87	Vill. No. 2 Balimara, P.O. Bedeti. Dist. Sonitpur, Assam Pin-784179
33.	Raju Borah.	Lakhi Borah (UR)	02-03-68	03-05-86	31-07-87	Vill. Namanigaon, Via Rangapara P.O. Thakurbari, Sonitpur, Assam
34.	Pradip Das.	Late. Prafulla Ch. Das (SC)	01-11-67	13-3-86	31-12-86	C/O. Subhas Das, (Panshop), Near Police Station, P.O. Rangapara, Dist. Sonitpur, Assam
35.	Robin Dwaimary.	Bhuban Dwaimary (ST)	12-05-68	03-11-86	31-12-88	Vill. Balahati, Chutiapara, P.O. Gurmow, Dist. Kamrup, Assam
36.	Pradip Boro.	Late Raja Ram Boro (ST)	17-03-86	03-05-87	31-12-88	Vill. Uttar Marmela, P.O. Marmela, Dist. Darrang, Assam Pin- 784521
37.	Chandan Dev Nath.	Jyotish Dev Nath (OBC)	16-12-68	03-02-87	20-07-88	Vill. Titaguri, P.O. Kokrajhar. Dist. Kokrajhar, Assam
38.	Kamaleswar Narzary	Seba Ram Narzary (ST)	15-11-68	03-02-87	20-07-88	Vill No. Pudumpukhuri, P.O. Janata Dist. Sonitpur, Assam Pin- 784179
39.	Phukan Boro.	Kati Ram Boro (ST)	02-10-68	02-04-87	31-12-87	Vill. Dindang para, P.O. Khoirabari Dist. Darrang, Assam
40.	Krishna Ram Boro	Lakhi Ram Boro (ST)	05-03-68	01-03-87	31-12-88	Vill. Gotanagar, P.O. Maligaon Gotanagar, Ghy-11
41.	Ratneswar Boro	Tekera Boro (ST)	17-03-86	03-05-87	31-12-88	Vill. Karara, Garbhitor, P.O. Tarani Dist. Kamrup, Assam

N.B. All Bio-data on the following candidates has been submitted at DRM(P) APDJ'S Office, N.F. Rly. for necessary doing.

(5) (a) of the Central Administrative Tribunal (Procedure)

order dated 28.5.96.

Advocate

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Annexure - 2

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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 Ramchiary & 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-11.
2. The Divisional Railway Manager (P),
Alipurduar Junction,
Alipurduar.
3. The General Manager (Construction),
N.F. Railway, Maligaon,
Guwahati-11

..... 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

Contd...

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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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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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Attorney
W.D.S.
Advocate

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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 (Admn)

trd

Attested

Advocate

Northeast Frontier Railway

Office of the
Divl. Rly. Manager(P)/AFW.

Dated: 21/04/2000

MEMORANDUM : No.E/227/RSV(E)AP

The result of the screening test held on 13.1.2000 in the screening of Ex: ST Casual labour of Construction Organisation and FCW Units are furnished below. The following Ex: 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/AFW on 19.4.2000.

Sl. No.	Name	Father's name.	Under whom worked.	Date of birth.	Date of first engagement.	Total days.	Whe-ther SC/ST/OBC.	Educational qualification.
1	2	3	4	5	6	7	8	9
	S/SR.H.							
1.	Ganesh Narjinary	D. Narjinary	GM/CON/MLG	20.11.65	1.5.84	975	ST	VIII passed.
2.	Keshab Ch. Boro	Kanaka Kanta Boro	-do-	23.9.66	5.8.84	879	ST	VIII passed.
3.	Bhubaneswar Boro	Jaraki Boro	-do-	12.3.65	27.3.84	847	ST	IX passed.
4.	Amir Boro	It. Lati Ram Boro	-do-	3.1.66	27.3.84	817	ST	X passed.
5.	Pratibha Kharkatary	N. Kharkatary	-do-	3.2.66	27.3.84	817	ST	IX passed.
6.	Moniram Swargiary	It. J. Swargiary	-do-	31.3.66	27.3.84	817	ST	IX passed.
7.	Pratibha Ch. Kalita	It. Jogeswar Kalita	SEN/FCW/MLG	31.12.59	10.6.82	724	UR	X passed.
8.	Ananda Ramchary	It. M. Ramchary	GM/CON/MLG	21.3.66	20.6.84	675	ST	IX passed.
9.	Hiteswar Boro	Jeolaram Boro	-do-	16.7.66	20.9.84	680	ST	IX passed.
10.	Rupan Ch. Brahma	Bhapan Brahma	-do-	1.2.66	1.5.84	610	ST	IX passed.
11.	Hari Chandra Boro	Nepat Boro	-do-	3.5.67	1.5.85	610	ST	VIII passed.
12.	Arabinda Boro (I)	Dhendra Boro	-do-	1.4.67	1.5.85	610	ST	IX passed.
13.	Dwigen Boro	Hari Chandra Boro	-do-	27.5.66	1.8.84	593	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	Khaniram Boro	-do-	20.10.65	1.8.84	518	ST	X passed.
17.	Mrinal Chakraborty	It. Khagendra Chakra- borty	SEN/FCW/MLG	1.1.63	19.7.84	408	UR	S.F. passed.
18.	Tapan Seal	Amitlal Seal	-do-	3.8.60	22.7.78	404	UR	S.F. failed.
19.	Pradip Kr. Boro	Nabin Boro	GM/CON/MLG	1.10.66	13.6.85	322	ST	IX passed.
20.	Ranjit Brahma	It. N. Brahma	-do-	1.10.66	13.6.85	322	ST	IX passed.
21.	Arabinda Boro (II)	Naren Ch. Boro	-do-	20.6.67	13.6.85	322	ST	X passed.
22.	Phulbari Basumatary	Mahaswar Basumatary	-do-	23.6.67	13.6.85	322	ST	VIII passed.
23.	Bimal K. Basumatary	Grish Kr. Basumatary	-do-	2.4.67	13.6.85	321	ST	IX passed.

(contd. 2...)

Attested
Advocate

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S/Serial		Name		Grade/Post		Date		Status		Remarks	
24.	Ashok Ramchary	Lt. M. Ram Basumatary	GM/CON/MLG	11.3.67	1.11.85	304	ST	IX passed.			
25.	Bhabit Boro	Patil Boro	-do-	30.3.67	1.11.85	304	ST	VIII passed.			
26.	Damakaram Deka	Bhekularam Deka	-do-	27.3.67	1.8.84	275	ST	IX passed.			
27.	Kanuleswar Boro	B. R. Boro	-do-	1.1.68	4.85	275	ST	IX passed.			
28.	Shil. Kr. Yadav	J.P. Jadav	SEN/FCW/MLG	15.2.67	10.6.85	251	OBC	III passed.			
29.	Uttam Ch. Boro	Baliram Boro	GM/CON/MLG	2.1.68	5.85	249	ST	-do-			
30.	Karuna Kanta Swargiary	Katiram Swargiary	-do-	1.3.68	10.4.86	243	ST	-do-			
31.	Samala Boro	Lt. Mangla Boro	-do-	15.6.66	1.85	239	ST	-do-			
32.	Hari Chandra Boro	Lt. Umesh Boro	-do-	3.3.66	5.84	214	ST	-do-			
33.	Yanowsa Swargiary	Lt. D. R. Swargiary	-do-	1.3.68	1.55	214	ST	-do-			
34.	Yanowsa Swargiary	Ratan Swargiary	-do-	30.5.67	6.85	214	ST	-do-			
35.	Rukmal Basumatary	B. Basumatary	-do-	1.1.67	8.75	212	ST	-do-			
36.	Anur Boro	Lt. Biren Boro	-do-	1.3.67	1.85	184	ST	IX passed.			
37.	Heramba Kr. Daimary	Phisala Daimary	-do-	1.3.67	6.85	184	ST	-do-			
38.	Ratiram Boro	Lt. Jogendra Boro	-do-	31.1.66	4.84	183	ST	-do-			
39.	Rajendra Daimary	Danda Daimary	-do-	30.11.65	5.64	153	ST	VIII passed.			
40.	Colak Ch. Boro	Dabar Boro	-do-	3.3.68	4.84	153	ST	-do-			
41.	Sibhas Boro	Anaram Boro	-do-	17.2.66	4.84	153	ST	IX passed.			
42.	Moniram Boro	Lt. Umesh Ch. Boro	-do-	21.3.66	8.85	153	ST	-do-			
43.	Krishna Basumatary	Shri Basumatary	-do-	7.1.67	11.85	151	ST	-do-			
44.	Narayan Basumatary	Rajendra Basumatary	-do-	1.2.66	3.4.85	141	ST	-do-			
45.	Jitendra Boro	D. R. Boro	-do-	1.2.65	5.84	123	ST	-do-			
46.	Sikuli Ch. Boro	Moraram Boro	-do-	20.8.66	5.84	123	ST	-do-			
47.	Prafulla Swargiary	N. C. Swargiary	-do-	30.6.67	5.85	123	ST	-do-			
48.	Gajendra Nath Boro	D. N. Boro	-do-	2.1.68	2.5.79	121	ST	S. F. Passed.			
49.	Pareesh Boro	Anaram Boro	-do-	20.9.67	12.85	121	ST	IX passed.			

Copy forwarded for information & necessary action to :-

- 1) GM(P)/MLG. (2) SPO/RESV/MLG. (3) GM/CON/MLG. SPO/HG/MLG
- 4) Dy. Secy./CON/MLG. (5) SEN/FCW/MLG. (6) DRM(W)/APDI.
- 7) Divl. Secy./AFREU/APDI. (8) Convener/NFRM/APDI. (9) Divl. Secy./AISTREA/APDI.
- 10) C.A. to Sr.DPO/APDI. (11) C.M.S./APDI.

(sdas/214Y2K)

Amended
21/4/80

For DIVL. RLY. MANAGER(P)
ALIPURJAR JUNCTION.

Amended
21/4/2000

EAST FRONTIER RAILWAY GAON, GUWAHATI (ASSAM)

Special Recruitment Drive for Scheduled Caste
& Scheduled Tribe Candidates
Notice No. NFR-2/2001

Category No. 01

Closing Date : 23 Nov. 2001

are invited from the eligible SC and ST candidates for filling up of 595 posts of Trackman in N.F. Railway.
COMMITMENT IS FOR 4 (FOUR) DIVISIONS OF N.F. RAILWAY I.E. THINUKIA, LUMDING, KATHAR AND KHALAI.
read the entire notification carefully before filling up the application form.
TEN TEST SHALL BE CONDUCTED ON SAME DAYS FOR ALL FOUR DIVISIONS
MENTIONED BELOW, HENCE CANDIDATES MUST SEND APPLICATION TO ONE OF THE
FOLLOWING DIVISIONS ONLY AS PER THEIR CHOICE.

In case a candidate applies to more than one division, his/her candidature is liable to be cancelled.
Special drive for filling up of SC/ST backlog vacancies (Total number : 595)

Division	Category of Post	Total number of vacancies	Breakup of Vacancies		Address for sending application
			SC	ST	
Kathar	Trackman Khalai	132 2	87 1	85 1	Divisional Railway Manager (Personnel) N.F. Railway, Kathar, Dibru, Pin-854105
Lumding	Trackman Khalai	144 35	68 11	86 24	Divisional Railway Manager (Personnel), N.F. Railway, Lumding, Assam Pin-782447.
Alipurduar	Trackman Khalai	130 12	37 8	93 8	Divisional Railway Manager (Personnel), N.F. Railway, Alipurduar, West Bengal, Pin-736123
Thinukia	Trackman	140	67	83	Divisional Railway Manager (Personnel) N.F. Railway, Thinukia, Assam, Pin-786125
Total		595	237	358	

Abbreviation : SC-Scheduled Caste, ST-Scheduled Tribe.
Note : The number of vacancies given are provisional and may increase or decrease as per requirement of the Railway. This Railway will not be responsible for any loss suffered by the candidate due to reduction of vacancies.

The Administration reserves the right to hold separate, additional/supplementary or re-examination for all or some of the candidates.

No application will be accepted at N.F. Railway Headquarters Office.

2. Scheme for Recruitment

The recruitment process shall be in three stages:

(I) Objective type written examination (Preliminary Test)

(II) Objective type written exam (Final Test)

(B) Physical efficiency test.

Successful candidates who have come through the two stage written test will be subjected to physical efficiency test to assess candidates, fitness for the post.

(However, the procedure is liable to change without any further notice)

The medium for these examinations shall be Hindi and/or English.
THE WRITTEN EXAMINATIONS AND PHYSICAL EFFICIENCY TEST SHALL BE HELD AT DIFFERENT PLACES WITHIN THE JURISDICTION OF N.F. RAILWAY ONLY.

3. Job Requirements : The post of Trackman is basically meant for the maintenance of Railway Track. The job entails lifting of heavy rails and working with spade, sickle, boiler steel, bar-crow, rake ballast and other P.W. tools for the upkeep of Track, Bridges and other track fixtures.

The posting of the Trackman will be in the remote areas of Divisions. The nature of job is arduous and requires a high level of physical fitness for efficient discharge of duties.

Similar requirements of physical fitness and job conditions are also applicable in case of Khalais.

4. Pay Scale : Rs. 2610-60-3150-65-3540/- plus usual allowances as per the prevailing rates for Trackman.
Rs. 2650-65-2600-60-3200/- plus usual allowances as per the prevailing rates for Khalai.

5. Minimum Academic Qualification :

Class VIII pass from recognized educational institution.

(Submission of bogus School Certificate will disqualify the candidate)

6. Age as on 01.09.2001 :

SC/ST : 18 to 38 years.

For Serving Railway Employee :

(Who have put in 3 years continuous service including Casual Labour and Substitutes)

Upper age limit is - SC/ST-45 years.

Their application should be sent through the cadre controlling authority.

7. Physical Standard :

The candidate must possess sound bodily health and physical fitness to do hard work as indicated in 'job requirement', anywhere and at any time throughout the year. The physical efficiency test may inter alia include lifting weight of 40 kg. and ability to run with the weight for a distance of 100 mts within prescribed qualifying time.

8. Medical Standard :

Candidates selected in order of merit and as per existing reservation rules, will be put through detailed medical examination to assess their fitness.

9. Eye Sight : B-1 (with or without glasses) for Trackman and Khalai.

10. Place of posting : They can be posted within the jurisdiction of the divisions of N.F. Railway. However, they are liable to serve anywhere on N.F. Railway.

11. Payment of examination fee/postal expenses :

Examination Fee :

For SC/ST candidates : Rs. 10.00 (only postal charges)

12. Mode of Payment : Crossed Indian Postal Order(s) drawn in favour of P.A. & CAO/N.F. Railway. The postal orders should be payable at Guwahati. Candidates must write their name, full address on the place provided in the Postal Order(s). The date of issue of Postal Order(s) must not be prior to the date of issue of the Employment Notice. Postal Order without this seal from the issuing post office will not be accepted and their candidature will be rejected. Payment in any other form will not be accepted and the application will be summarily rejected.

13. How to apply :

1. The candidate should apply to the Divisional Railway Manager (Personnel) of the Division according to their choice as per application form given at Annexure 'A' on good quality plain paper of A-4 size.

2. All entries in the application form should be duly filled in blue/black ball point pen, in case any entry is not applicable for a candidate, 'Not applicable' (NA) should be written against that column.

3. Full postal address of the candidate with pin code for communication with the name of the nearest Railway Station and Permanent address must be given.

4. Candidates must sign in full (and not initials) in different places on the application form as indicated therein and not merely write their names in block capital letters in signature column.

The style and language (English or Hindi) of signature on the upper portion of Admit Card, Answer

Sheet Photographs and biometric data of the applicant must be submitted in the same form. It must be noted very carefully. Any variation may disqualify the candidate. Applications must be sent by ordinary post ONLY.

5. The last date and time of receipt of application is 23.11.2001 (5 PM) and it is extended on any account. Applications received after the closing date and time will be rejected.

6. Application should be filled in by the candidate in his or her own handwriting only.

7. If more than one application is received in one envelope all the applications will be rejected.

8. Candidates who are working in any government department or public sector undertake to send their application through their department and they should also submit 'no objection' along with the application.

9. Envelope containing the application and its enclosure should be addressed to the Railway Manager (Personnel) of the concerned division according to the choice of the candidate superseding the words 'Application in response to Employment Notice NFR-2/2001 (Special Recruitment Drive for SC/ST)' on the top left side of the envelope.

10. Enclosures :

The following enclosures should be properly stapled/stitched along with the application.

A) Copies of certificates in regards to academic qualification, proof of age, caste, mark to be attested by any of the following authorities and enclosed along with application. Paste on the back of the mark sheet/certificate should also be photocopied invariably.

(1) Members of Parliament or Members of Legislative Assembly.

(2) Gazetted Officers of Central or State Government.

(3) Tahasildars or Nayab/Dy. Tahasildars authorised to exercise Magistrate Powers.

(4) Principals or Head Masters of all recognized Educational Institutions.

B) Three recent pass port size photographs of the applicant with full signature on the back of each photograph. One of which should be pasted in the space provided in the application form and other two stapled/stitched firmly with all enclosures.

C) SC and ST candidates must attach caste certificates in prescribed format issued by competent authority. (Format of certificate for SC/ST is given at Annexure-B)

14. Notes :

(A) Necessary certificates/testimonials/documents must be in English or Hindi. If it is in any other language, it must be translated in English/Hindi and attested by any of the authorities mentioned above.

(B) A candidate who submits any forged certificate for securing eligibility shall be liable for rejection of his candidature for this particular recruitment but he will be reinstated from any examination conducted by any zonal railways/Railway Recruitment Boards and vice versa for legal action.

(C) Candidates' final appointment will be made based on verification of the Caste Certificate.

(D) The decision of the Divisional Railway Manager (Personnel) of the divisions in all matters relating to eligibility of candidates, allotment of examination centres and any other matter relating to recruitment shall be final and binding on the candidates and no enquiry or correspondence is entertained in this connection.

(E) N.F. Railway shall intimate only to those found eligible to appear in the written test and stages of selection. It does not undertake any responsibility for sending reply to the candidates selected or not called for written/physical efficiency test etc.

(F) N.F. Railway is not responsible for any postal delay and wrong delivery etc.

(G) The number of vacancies shown in the employment notice is provisional and may increase/decrease according to exigencies.

(H) Candidates trying to use unfair means or canvassing in any form will be disqualified and their candidature will be cancelled without any notice.

(I) Impersonation or misbehaviour in the examination hall will render the candidate liable for rejection and disqualification.

(J) Railway Administration reserves the right to hold any re-examination or additional examination for physical efficiency test/Interview.

(K) For any legal action arising out of this employment notice the jurisdiction shall be CA only.

(L) Do not buy the form from any person or agency as nobody has been authorised to sell the form.

(M) Railway administration is not responsible for any inadvertent error in the advertisement and will not be held for any postal delay or wrong delivery.

By Chief Personnel Officer (Daz) A Controller of

APPLICATION FORM

(To be filled by the candidate in his/her own handwriting)

Community

(SC/ST)

Division for which

* SC-Scheduled Caste; ST-Scheduled Tribe

** State choice for one Division only out of 4 Divisions i.e. Alipurduar, Kathar, Lumding, Thinukia (Indicate your District and State according to present address)

DISTRICT

STATE

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Attested

[Signature]

Advocate

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

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

1. Shri Dhakeswar Bihang
2. Shri Lohit Ch. Boro
3. Shri Rati Kanta Boro
4. Shri Monoranhan 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 Napolion Lahary
30. Shri Rajen Daimary
31. Shri Ansuma 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

Attested
by
Advocate.

33 : 2 :
58
All Ex-Casual Labourers in the Alipurduar
Division, (BG/CON), N.F.Railway.

By Advocates Mr.U.K.Nair & Ms.U.Das. Applicants.
- 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.

The applicants claim that they belong to 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

Attested
WDA
Advocate

3: - 10 - 345
51
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 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

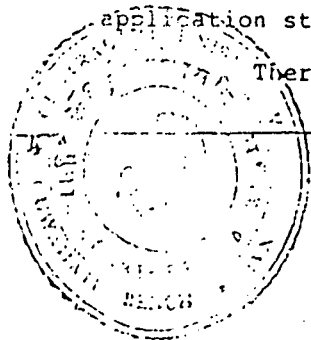
Contd./4

Attended
WDA
Advocate

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: 4 :
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

Certified to be true Copy
प्रमाणित प्रतिलिपि

bb

19/5/03
Section Officer (3)

C.A.T. GUPTA HATI BANCH
Gumastha-58/003

Attended
W. S. M.
Advocate.

36 -
Annexure - 6
dated - 23/5/03

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.43/02

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

Attended
Hans
Advocate

Attended
Hans
Advocate

37 - 13 -

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/-
Dhaneswar Rahang

Attested
W.D.M.
Advocate

Attested
W.D.M.
Advocate

- 38 -

Annexure - 7

REGISTERED WITH AD

N. F. RAILWAY

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

No. F/63/Con/1

Dated: 18.03.2004

To

Shri P. Radip Das
@/o Subhash Das (Pon Shop)
Near Police Station

P.O. Rangapala
Dist: Sonitpur (Assam)

Sub: Hon'ble CAT/GHY's Order in O.A.No. 43/02

Ref: Your application dated 31-5-03

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
18/03/04
(P. G. Johnson)
APO/Con

For General Manager/Con

RECEIVED
19/3

Attested by
Advocate

Office of the
General Manager (P)
Maligaon, Guwahati

Dated 17-03-2004

No. E/57/2/11(E)Loose.

To
CE/CON-II/MLG

Sub: Regularisation of a Group of casual Labourers in APDJ
division (under Construction)

A MR reference case regarding regularization of a group of Casual Labourers in APDJ division (under Construction) is forwarded vide Railway Board's letter No. 2003-E(SC/T)11/5/25 dated 21-01-2004 alongwith letter of Shri Madhab Rajbongshi, MP Lok Sabha, representation of SC/ST Association/RPAN and copies of CAT/GHY's judgement dated 01-05-2003 in O.A. 43/2002 and 44/2002 is forwarded herewith for your examination please. It is further added that target date of implementation of CAT/GHY's judgement is already over and it is learnt that some more time is being sought from CAT/GHY. Copy of the letter No. E/211/DOP/DPG/MR dated 08-03-2004 in this regard received from APDJ division is enclosed for ready reference.

In view of above, you are requested to examine the issue and take appropriate action without further delay; otherwise there is a possibility of filing contempt petition against GM, NF Railway and GM/Construction which will create an embarrassment for the GM.

Action taken may kindly be advised so as to apprise Railway Board with reference to the pending MR reference.

(V. Pitchairaju)
Chief Personnel Officer (R)
for General Manager (P)

Parimal
H. S. S. S.

- (ii) Verified the Casual Labour Service Cards of the applicant and same are seem to be in order, but can not be confirmed about the genuineness, since no original records for cross-check in this connection are available in this office.
- (iii) Signature of officer as found on the CL card can not be certified for want of proper identification.

Amest
W. Das
Advocate

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Amraam - 89

Northeast Frontier Railway.

Office of the
General Manager/Con
Maligaon: Guwahati-11
Dated: 25.03.2004

No.E/63/Con/1
To

General Manager (P)
N. F. Railway/Maligaon

Sub: Regularisation of Group of casual labours in APDI
Division(Under Construction).

Ref: Your letter No.E/57/2/11(E)/Loose dated 17.03.2004.

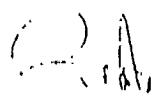
With reference to the above it is to inform that on getting the CAT's direction in OA No.43/2002 and 44/2002, individual applicants were asked to submit documents/casual labour cards in support of their claim of having worked in the Railway. Accordingly the applicants furnished/submitted aforesaid documents.

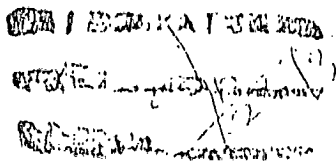
These documents had been got verified by WLI/Con and Dy.CE/Con/JPZ to ascertain/establish the genuineness of the claims.

Both WLI/Con/MLG and Dy.CE/Con/JPZ have given the report that though the names of the applicants were found available in the documents but the signatures as appearing in the Casual Labour Cards are not tallying.

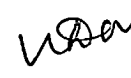
On the basis of aforesaid reports, the individual applicants of the OAs have since been informed by this office vide letter No.E/63/Con/1 dated 18.03.2004 that genuineness of the claim could not be established, hence the case is rejected.

This is for your disposal please.


(Sanjiv Roy)
Chief Engineer/Con/11
For General Manager/Con.



Attested


Advocate.

- (ii) Verified the Casual Labour Service Cards of the applicant and same are seen to be in order, but can not be confirmed about the genuineness, since no original records for cross-check in this connection are available in this office.
- (iii) Signature of officer as found on the CL card can not be certified for want of proper identification.

R.E. Railway

Office of the
Divl. Rly. Manager(P), 58
Alipurduar Junction.

No. E/227/RESV/(E)AP

Dated: 30/03/2004

To:
The General Manager(P),
H.F.Rly./Maligaon.

Amroha - 20

Subj:- CAT/CHY's order dated 2.6.03 in the
O.A. No. 43/02 & 44/02 - D. Raheng &
40 others & S. Ramchary & 16 others
C.L. - vrs - U.O.I. & others.

Ref:- GM(P)/MLQ's letter No. E/227/RESV/
SPL/92/Clear C.L. IV of 01.7.03, this
office letters of even number dated
1.9.03, 23.9.03, 16.9.03, 6.10.03 &
GM/CON/MLQ's No. E/63/CON, 1 of 25.9.03.

Kindly refer to letters numbers quoted above. As regards
subject matter, above for compliance/implementation of Hon'ble
Court's order, one SLMI and one Head Clerk/E of this Division
was directed to GM/CON/MLQ for necessary verification/genuine-
ness of the applicant (41 + 17 Exi Casual Labour) and collect
the necessary documents. But they were returned back by the
GM/CON/MLQ with the assurance that all the available documents
will be sent as early as possible and ALO/CON/MLQ has been
advised to approach to take more time from the CAT/CHY.

But neither any reply nor any available documents from
GM/CON/MLQ has yet been received by this office for which
comments from this end could not be send to Hon'ble CAT/CHY.

This is for your information please.

(A. K. Mukherjee)
A.P.O./II

for DIVL. RLY. MANAGER(P),
ALI PURDUAR JUNCTION.

Copy for information and necessary action to :-

- 1) O.M./CON/Maligaon. (2) A.P.O./Legal Cell/MLQ.
- 3) C.L.A./APDJ.

(udao/30304)

for DIVL. RLY. MANAGER(P),
ALI PURDUAR JUNCTION.

- (ii) Verified the Casual Labour Service Cards of the applicant and same are seem to be in order, but can not be confirmed about the genuineness, since no original records for cross check in this connection are available in this office.
- (iii) Signature of officer as found on the CL card can be certified for want of proper identification.

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- 42 -
Amex me - 11/11/11
(12 B.C.) 9/11/11

N.E. RAILWAY

Office of the
Deputy Chief Engineer/Con,
NMX-JPZ New BG Line Project,
Jogighopa.
Dated : 16-03-2004.

No.E/74/4/JPZ/(CAT)/

General Manager/Con,
N.E.Railway:Mallipon.

Sub: Verification of documents/records.

Ref: Your letter No.E/63/Con/1 dated 5-3-2004.

With reference to your letter mentioned above, 4 OAs filed by Shri D.Rahang and 40 others, Shri S. Ramchiary and 16 others, Shri Habul Ghosh and 10 others and R.Daimary and 3 others have been verified in detail with the records as available in the file No. E/255/(2) of this office and forwarded the following remarks/comments against the individual cases.

1. Case No.(OA No.43/2002(41))

- (i) From the report of WLI/CON/MLG dtd. 13.02.04, it is seen that working period of the ex-casual G/man were in between 1984 to 1989 (April/89), while JPZ project office was established at JPZ in connection with Rail-cum-Road bridge construction. No such ex-casual G/man as quoted in the report was engaged in the JPZ project so far.
- (ii) On verification, the Bio-data's of casual Labour Register (Xerox) of XEN/BG/CON/BNGN as available, the Data's (DOB, DOA & DOD etc) of ex-casual staff found seems to be correct.
- (iii) Regarding the genuineness of claim of individual cases, it is stated that there is no scope to examine the signature of officers concerned as no original documents/signature of the concerned officers who signed in the CL cards are available in this office record as XEN/CON/BNGN was not under Brahmaputra bridge construction at JPZ project.

Hence no comments regarding genuineness.

2. Case No. OA No.44/2002(17 Nos.)

Total 17 Nos. of applicants had filed a case before Hon'ble CAT/GHY for their re-engagement in service, since they were ex-casual G/man under XEN/BG/CON/BNGN in connection with six line project.

On scrutiny of the records viz Casual Labour Register of XEN/BG/CON/BNGN (Xerox) and Casual Labour Service Cards the following facts are found :-

- (i) Name and Bio-data of the applicants as mentioned in the verification report of WLI/CON/MLG are found to be in order so far, (as per Casual Labour Register of XEN/BG/CON/BNGN).
 - (ii) Verified the Casual Labour Service Cards of the applicant and same are seen to be in order, but can not be confirmed about the genuineness, since no original records for cross check in this connection are available in this office.
 - (iii) Signature of officer as found on the CL card can not be certified for want of proper identification.
- was

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3. Case No. OA No. 259/2002 (11 Nos.)

In this case, total applicants were 11 Nos., out of which the name of 8 Nos. are found in order as per the records of file No.E/255/2(JPZ)(Bio-data). The name of (i) Shri Kripan Tewary (ii) Shri Pradip Sarma and (iii) Shri Habul Ghosh are not traced out in the CL Register/Records.

Based on the Casual Labour Register (Xerox), the remarks are furnished below:

- (i) The name of applicants SL.No.1 to SL. No.8 (as per verification report of WL/CON/MLG) are traced out and Bio-datas (DOB, DOA & DOB) of the applicant tally with Casual Labour Service Card's data.
- (ii) The signature of the officer concerned as reflected on the CL cards (Photo copy) and documents (data of CL register) are seem to be similar but it can not be confirmed for want of identification of original signature.

4. Case No. OA No. 256/2003 (4 Nos.)

In this case, there are 4 (four) applicants namely (i) Shri Ratneswar Daimary, (ii) Shri Nripen Deka, (iii) Shri Nandi Daimary and (iv) Shri Monaranjon Daimary.

On going through the file No.E/63/CON/1 (MLG/HQ), it is seen that :-

- (i) Name of the applicants mentioned above are not traced out in the records/CL register of XEN/PG/CON/BNGN.
- (ii) Signature of Officer as found on the CL card (Xerox) can not be confirmed for want of original document/signature etc. Hence genuineness of the case is not confirmed.

In view to the above, CL cards and 4 OA cases are returned herewith through our special man which may please be acknowledged the receipt.

DA : Above 4(four) cases alongwith
41+15 Nos.CL cards.

Dy. Chief Engineer(Con),
N.F.Railway, Jodighopa.

man

1 MAY 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

Filed by
Munnu
11/05/05
DA. M. C. Caning
Pty. Advocate
51
Anshuman Singh
उप मुख्य कार्यकारी अधिकारी (फा)
Dy. Chief Personnel Officer (Con.)

IN THE MATTER OF

O.A. 338 OF 2004

Shri D. Rehang & 40 Others ...

Applicants

Versus

Union of India & Others ...

Respondents.

AND

IN THE MATTER OF

Written statement on behalf of the respondents

The answering respondents respectfully SHEWETH :

1. That the respondents have gone through the copy of the application filed and have understood the contents thereof. Save and except the statements which have been specifically admitted hereinbelow or those which are borne on records, all other averments/allegations as made in the application are hereby emphatically denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity, meticulous denial of each and every allegation/statement made in the application has been avoided. However, the respondents have confined their replies to those points/allegations/averments of the application which are found relevant for enabling a proper decision.

3. That the respondents humbly submit that the application is barred by RES JUDICATA since the matter under dispute raised by the same parties on the same issues has been adjudicated upon two occasions previously by this Hon'ble Tribunal in their judgments in O.A. 79/96 and O.A. 43/2002 as admitted by the applicants themselves in paragraphs 4.9 and 4.17 of the O.A. Copies of the judgments have been annexed by the applicants as Annexure 2 and Annexure 5 respectively.

The applicants also filed contempt petition No. 38/04 which was contested by the respondents. The Hon'ble Tribunal was pleased to dismiss the contempt petition also for want of cause of action as the respondents had taken the required steps as directed by the Hon'ble Tribunal and communicated their decision individually to the contemnors very much before filing of the contempt case.

A copy of the order of the Hon'ble Tribunal dated 4.11.2004 is annexed herewith and marked as ANNEXURE A.

It is therefore prayed that since the matter of the present application submitted by the same parties have already been repeatedly and conclusively adjudicated upon by the Hon'ble Tribunal, the O.A. be dismissed at the threshold on the plea of RES JUDICATA.

4. That it is stated on behalf of the respondents that in the year 1987 the Railways evolved a scheme under which casual labourers who were discharged prior to 1981 for want of work or due to completion of work and not reengaged thereafter could apply for inclusion of their name in the casual labour register before 31st March, 1987. This would have enabled them to get temporary status on re-engagement in due course. For this however, the discharged casual labourers had to submit written representations by 31.3.1987 along with full documentary proof of their earlier engagement with following details:-

- (1) Name; (2) Father's name; (3) Date of birth with proof;
- (4) Permanent address; (5) Educational qualification;
- (6) Permanent mark of identification; (7) Name of the office/department and the place initially/previously engaged; ~~(7) Name of the office~~ (8) Reason for discharge; (9) Where and how employed after discharge;
- (10) Attested copy of photograph and signature/LTI and
- (11) Any other proof of having worked as casual labourers on Railways.

The scheme required that the representations would be scrutinised by a Committee of duly constituted officers in regard to the genuineness of their claims before allowing them to be included in the live register of casual labourers.

It is noticed that though the applicants in the present O.A. were entitled to submit representations with full particulars for inclusion of their names in the live register before 31.3.1987, none of them appear to have done so. This failure on their part to avail of the amnesty has deprived them of any remedy or relief. Any hope they had for future employment has thus been extinguished by their failure to wake up in time.

In view of the above, the answering respondents beg to urge that the O.A. be dismissed for want of merits.

5. That the respondents beg to draw attention of the Hon'ble Tribunal to Annexure 6 of the O.A. at page 36, which is purported to be a copy of the application/representation submitted by the applicants in response to the order of the Hon'ble Tribunal dated 1.5.2003 in O.A. 43/2002. It would be seen that the representation simply

stated "...we were terminated prior to 1981" without even mentioning the date from which they were respectively discharged. It therefore appears the applicants themselves were not having their facts right. They gave no details of their dates of engagement, dates of discharge, No. of days of service with dates and names of and designations of subordinates under whom they served and original signatures/LTI of discharged casual labourer and such other proof of their engagement as required under the rules. In view of these vague representations, the respondents were handicapped in their effort to verify the genuineness of the claims of the applicants and had therefore to reject the claims.

In the present O.A. also the applicants have not furnished any of the details of their claims and hence the O.A. merits dismissal on this count also for want of a cause of action.

6. That assuming for argument's sake (though not accepting) that the applicants were discharged in the year 1980 (Annexure 6 says "we were terminated prior to 1981"), it would appear that a period of more than 25 years has by now expired since their alleged discharge. This long period has given rise to practical problems of verification of the records of as the field offices of the Executive Engineer of the Construction organisation and of the Subordinates working under them shifted from one place to another due to changing needs of the organisation. Thus XEN/Bongaigaon's office along with those of the subordinates were shifted to Jogighopa and Pancharatna for carrying out the construction of the Jogighopa Rail-cum-road bridge. Due to this reason as well as due to lapse of time the original records were not available for purpose of proper and thorough verification of the claims of the applicants. The situation was compounded by the fact that the applicants themselves also did not or could not produce their original records. Thus, admittedly, the enquiries were mostly based on zerox copies of the records as they were available. For obvious reasons, these records could not be relied upon as authentic due to the fact that such materials are capable of being manipulated due to the high stakes involved. Under the circumstances, if the applicants could produce their original records with attested signatures/LTIs/Photographs along with original signatures of the subordinates under whom they served etc., the process of verification would have been greatly helped. However, as the applicants failed to furnish these particulars for verification of their claims the same had to be rejected.

Since the situation in this respect remains the same even now, the O.A. deserves to be dismissed for want of a valid cause of action.

7. That it is humbly submitted on behalf of the respondents that even if the dates of discharge is assumed to be 1980 (though this claim is not accepted) a period of more than 25 years has elapsed in the mean time. In view of this, if the unjust claims of the petitioners is favourably considered by the Hon'ble Tribunal the same would amount to depriving an equal number of young aspirants who in the mean time have become eligible and are entitled to claim employment. A decision in favour of the applicants would therefore be quite unfair to the new generation of aspirants.

For this reason also the Hon'ble Tribunal may kindly consider dismissal of the O.A.

8. Parawise comments :

8.1. That as regards paragraph 4.1 the respondents have no comments to offer except to state that the applicants are put to the strictest proof of their claim.

8.2. That in regard to paragraph 4.2 the respondents deny the statement made therein and state that the applicants have not given any data about their alleged engagement as casual labour, dates of engagement, dates of discharge, names ~~of~~ and designations of subordinates under whom they served and by whom they were discharged, nor did they furnish original documents certifying their engagement and discharge with their signatures and with the signatures of the subordinates under whom they were engaged and discharged, their personal marks of identification, proof of age and such other particulars in support of their claims.

8.3. As regards paragraph 4.3 the respondents beg to state that the applicants have made highly misleading statements which are hereby denied. In absence of records made available by the applicants there was no question of any arbitrary action by respondents. It was also not correct on the part of the applicants to state that "... even after discharge from their services, the applicants continued to serve under the respondents". The respondents fail to understand how this was possible, given the circumstances.

8.4. As regards paragraph 4.4 the respondents beg to state that in order to get their names included in the live register certain procedures and conditions are followed and only those casual labourers who satisfy certain qualifications and who produce records in support of their claims find place in the live register. In addition, they had to apply before

Dy. Chief Personnel Officer
 Ambur
 6/4

the cut-off date of 31.3.1987 with full details. Failure to apply before the cut-off date had deprived them of their right of inclusion of name in the said live register.

8.5. As regards paragraph 4.5 the respondents beg to state that the so-called list of 120 is not prepared by the Railways. In any case, the list is not relevant as none of the persons indicated by the Annexure 1 had applied for inclusion of their names in the ~~live~~ register before the cut-off date with full particulars as required.

8.6. As regards paragraphs 4.6, 4.7 and 4.8 the respondents beg to state that an attempt has been made to mislead the Hon'ble Tribunal in these paragraphs. If the so called list included name of persons who had not applied in time for inclusion of their names in the register before 31.3.1987 they would have lost their opportunity as indicated above.

8.7. As regards paragraph 4.9 the respondents beg to state that the Hon'ble Tribunal's orders were obeyed and acted upon by respondents in letter and in spirit.

8.7. As regards paragraph 4.10 the respondents beg to state that the Hon'ble Tribunal's orders were obeyed and their action was based on extant instructions and on verification of documents about their authenticity and there was therefore no question of any pick and choose action or action behind the back of any one as alleged. All action taken by the respondents as transparent in all respects.

8.8. As regards paragraph 4.11 the respondents beg to deny the case of the applicants was similar to those selected after proper screening. The allegation that the applicants were discriminated against is also not accepted. The action taken by the respondents was based on extant instructions and the cases of the applicants were not covered by the same.

8.9. As regards paragraph 4.12 the respondents beg to state that the claims of the applicants were not found authentic and they were therefore not considered for screening.

8.10. As regards paragraphs 4.13 and 4.14 the respondents beg to state that the representations of the Association and National Commission for SC/ST were dealt with on merit and action taken as per extant instructions.

8.11. As regards paragraph 4.15 the respondents beg to deny that they applicants were engaged as casual labourers as there were no records adduced by them to prove the claim. The allegation of discrimination is also not accepted.

65
Dy. Chief Personnel Officer (Con.)
at 31.3.1987 (F7)

8.12. As regards paragraph 4.16 the respondents beg to state that the unjustified demands of the applicants for absorption as casual labourers had nothing to do with the ongoing general recruitment work of the Railways as part of their administrative work. Hence the respondents regret that the demand of the applicants to interfere with the normal work of recruitment in the manner suggested will go against public interest and should not be accepted.

8.13. As regards paragraphs 4.17 and 4.18 the respondents beg to state that the directive of the Hon'ble Tribunal in O.A.43/2002 was followed and the applicants were suitably advised of their decision. In spite of this, a contempt petition was filed by the applicants although they received the communication from the respondents much in advance. For this very reason the contempt petition was dismissed by the Hon'ble Tribunal, as indicated in Annexure A of this W.S.

8.14. As regards paragraphs 4.19, 4.20 and 4.20, the respondents beg to state that the applicants have, without any authority, quoted from official correspondence of various offices of the respondents and have indulged in wrong representation and motivated mis-interpretation of the matters referred therein. The letter dated 17.3.2004 (Annexure 8 of the O.A.) was only for follow up of a reference from the Railway Board. Similarly the letter dated 25.03.2004 (Annexure 9) clearly stated that "...the signatures as appearing in the Casual Labour Cards are not tallying" and that "genuineness of the claim could not be established...". Attempt to manipulate the meaning of the letters cannot therefore be successful.

8.15. As regards paragraphs 4.22, 4.23, 4.24 and 4.25 the respondents beg to deny the averment of the applicants that the order dated 18.3.2004 was illegal, arbitrary and violative of natural justice. The respondents state that the averments made by the applicants in these paragraphs were nothing but a weak attempt to mislead the Hon'ble Tribunal regarding the contents of the letters referred to. The letter referred to was part of the internal correspondence of the respondents and the applicants had no authority to quote from the same, particularly using it to wrongly interpret its contents. For instance, the Deputy Chief Engineer clearly stated in his letter that a) the verification was done from xerox copies of the register; b) that regarding the genuineness of the claims of individual cases there was no scope to examine the same for want of original records. The respondents beg to clarify that the signature of the officer who signed the casual labour cards did not tally with the signature of the said officers in other official records, as revealed by the

investigation. In absence of a confirmation of genuineness of the zerox copies of the records referred to in the report, the inference drawn was that the records might have been doctored or manipulated by interested parties to take advantage of the situation. Hence, the respondents had intimated the applicants vide their letter dated 18.3.2004 that the "genuineness of your casual labour card is not established" and "hence your claim for re-engagement in Railway Service is rejected..." If claims of such applicants are conceded there would be a flood of such doubtful aspirants who would come out with similar demands for jobs without ever having any justification based on genuine records. The situation in which the applicants found themselves is complicated by the fact that they never applied in time for inclusion of their names in the live register due to their own laches. Their unfortunate situation is also compounded by the lapse of over 24 years of intervening period. As regards the question of personal hearing, it is submitted that no useful purpose would be served by the same in view of the that the applicants cannot produce any fresh and genuine records and the lapse of over 24 years of the intervening period would not help the respondents to enter into a further probe in the matter de novo.

8.16. As regards paragraphs 4.26, 4.27 and 4.28, the respondents beg to state that the process of recruitment for 595 posts referred to has nothing to do with the claims of the applicants in this O.A. An interference of the kind prayed for by the applicants would affect the Railway's normal functioning and would go against public interest, especially as the applicants do not have any cause of action.

It is therefore prayed that the Hon'ble Tribunal be kind enough to reject the demand for an interim order and also dismiss the application with costs in view of the detailed justification for the same made out in the foregoing paragraphs.

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


.... P.8.....

(8)

VERIFICATION.

I, Shri AMBESWAR SAIKM, son of Shri LATE CHANDRA SAIKIA, aged about 50 years, at present working as Dy. CP/ CONSTRUCTION, N.F. Railway, Maligaon, do hereby verify and solemnly affirm that the statements made in paragraphs 1 to 8 are true to the best of my knowledge and information 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 10th (Tenth) day of _____, 2005.


Signature
Dy, Chief Personnel Officer (Con.)
Designation
N.F. Railway, Maligaon
Guwahati- 781011

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

9 ANNEXURE A 69

Orig. App./Misc. Petn./Cont. Petn./Rev. Appl.

38/04

In O.A.

43/02

Name of the Applicant(s)

Dhanendra Rahang Eors

Name of the Respondent(s)

H. O. I. Eors

Advocate for the Applicant

Mr. H.K. Nanda, Ms. H. Das

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

DR M. C. Sharma

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

4.11.04.

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

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

Heard learned counsel for the
parties. The learned counsel for the
applicant states that in view of the
reply filed by the Respondent reporting
compliance of order of this Tribunal,
this application be disposed of. The applica-
tion is accordingly, dismissed.

Sd/MEMBER (J)

Sd/MEMBER (A)

True copy.

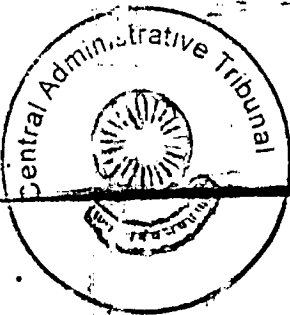
11/5/05
DR M. C. Sharma
Ry. Advocate

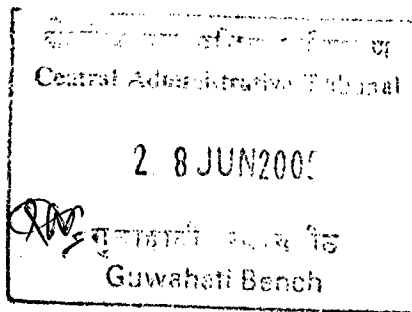
Memo No

570.

- 1) Miss H. Das, Advocate, Gauhati High Court.
- 2) Dr. M. C. Sharma, Rly Standing Counsel.

16/11/04
Section Officer (C).
16/11/04





BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO. 338/2004

SHRI D. RAHANG & ORS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

REJOINDER SUBMITTED BY THE APPLICANTS

- 1) That the applicants have received a copy of the Written Statement (herein after referred as WS) filed by the respondents, have gone through the same and have understood the contentions made thereof. Save and except the statements, which are specifically admitted herein below, rest 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 paragraph 1 of the WS, the applicants do not admit anything contrary to the record of the case.
- 3) That with regard to the statement made in paragraph 2 of WS, the applicants beg to state that the respondents have not submitted Para wise reply only to avoid the statements which are borne on record of the case and specifically relied by the applicants.
- 4) That with regard to the statement made in paragraph 3 of the WS, the applicants while denying the contentions made therein beg to state that the respondents have failed to understand the principle of RES JUDICATA. By the present OA the applicants have challenged the order-dated 18.3.04 by which the claim of the applicants has been rejected on the ground of genuineness, which was not in existence at the time of filing of OA No. 43/02.

1
Filed by
the applicants through
Adv. Das.
Advocate
27/6/05

The applicants further beg to submit that since the direction passed in OA No. 43/02 was complied with the counsel for the applicants submitted before the Hon'ble Tribunal for disposal of the Contempt Petition filed by the applicants.

- 5) That with regard to the statement made in paragraph 4 of the WS, the applicants while denying the contentions made therein beg to state that since the contentions of the respondents made in this paragraph has already adjudicated upon by the Hon'ble Tribunal in OA No. 43/2002, and the respondents have not challenged the same in any forum hence the respondents are estopped from taking the same plea again. The respondents themselves have admitted in their WS filed in OA No. 43/2002 that one Shri Habul, son of Rupal was screened but could not be absorbed due to want of vacancy within the panel period (paragraph 3 of the judgment passed in OA No. 259/2002). The Hon'ble Tribunal was pleased to consider the submission made by the respondents and had dealt with the contentions made in the entire paragraph. Since the order remained unchallenged the Observation made by the Hon'ble Tribunal in OA No. 259/2002 has already attained finality, hence the same cannot be reopened again, which shows complete disregard of the Hon'ble Tribunal's Order.

The applicants further beg to state that the plea taken by the respondents in the order-dated 14.3.03(annexure 2 to the WS) is contemptuous in nature. The Hon'ble Tribunal had already considered the reason for non-consideration of the case of the applicants in the said order and made observations in favour of the applicants. The respondents have taken the same plea again, which goes to show the complete disrespect of the Hon'ble Tribunal's order. Points decided by a court of law and remained unchallenged; it cannot be reopened in the same court again. If the respondents were not satisfied with the Hon'ble Tribunal's order they ought to have approached the Hon'ble High Court against the same order. Now the respondents cannot take the same plea again, which is not permissible under the law, hence it is liable to be set aside and quash.

- 6) That with regard to the statement made in paragraph 5 of the WS, the applicants while denying the contentions made therein beg to state that they themselves have admitted in order dated 16.3.04 that the Bio-data's of casual Register of XEN/BG/CON/BNGN as available, the data's of ex-casual staff found seems to be correct. This is unbelievable that the respondents have kept the Xerox copy of

the record, but not original one. If they do not have the original records then this cannot be said to the mistake on the part of the applicants. The applicants most humble submit that the respondents are trying to frustrate the claim of the applicants in the name of genuineness.

- 7) That with regard to the statement made in paragraph 6 of the WS, the applicants while denying the contentions made therein beg to state that similarly situated persons have been given the appointment depriving the claim of the applicants. The respondents being the model employer should not have discriminated the applicants as because they did not approached the court of law. Since the applicants belong to very poor family it was not possible for them to approach the court. But they have been visiting the office of the respondents keeping a hope that one day the respondents like the applicants in OA No. 79/1996 will also consider their cases.

The applicants further beg to submit that the respondents have already have admitted that the data's of the applicants are correct, now they are duty bound to consider the cases of the applicants against any group -D post.

- 8) That with regard to the statement made in paragraph 8.1 of the WS filed by the respondents, the applicant beg to state that the applicants do not have any doubt regarding citizenship and community they belong.
- 9) That with regard to the statement made in paragraph 8.2 of the WS, the applicants while denying the contentions made therein beg to reiterate and reaffirm the statement made above. The applicants further beg to state that the respondents are trying to mislead the Hon'ble Tribunal making such statement. The respondents themselves have admitted that the data's of the applicants are correct. It is not the case of the respondents that they do not have any record to verify the cases of the applicants. The respondents have denied the cases of the applicants only on the ground of genuineness. The applicants pray before the Hon'ble Tribunal to direct the respondents that to consider the cases of the applicants in any Group- D posts.
- 10) That with regard to the statements made in paragraph 8.3 of the WS, the applicants while denying the contentions made therein beg to state that the applicants never try to mislead the Hon'ble Tribunal. It is the respondent's

documents, which says that the Bio-data's of the applicants are correct. The applicants most humble submit that Bio-data's of two persons cannot be similar.

- 11) That with regard to the statement made in paragraph 8.4 of the WS, the applicants beg to state that the contentions of the respondents has already dealt with by the Hon'ble Tribunal in earlier OA. Since the respondents did not challenge the earlier OA, they are estopped from raising the same issue again before Hon'ble Tribunal.
- 12) That with regard to the statements made in paragraphs 4.5 to 8.11 of the WS, the applicants while denying the contentions made therein beg to reiterate and reaffirm the statements made above as well as in the OA. The applicants further beg to state that regarding application for inclusion of the names of the applicants has already considered by the Hon'ble Tribunal. In the WS filed in OA No. 259/02, the respondents have already admitted that Sri Habul son of Ruplal was screened but could not be absorbed for want of vacancy within the panel period (paragraph 3 of the judgment passed in OA No. 259/2002). In paragraph 5 of the judgment it is clearly held by the Hon'ble Tribunal that after termination the applicants 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 Hon'ble Tribunal. The applicants are not guilty of any lasches. When similar nature of orders was 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. Since the applicants are also similarly situated persons the judgment passed in the above case is also applicable to the present applicants.
- 13) That with regard to the statement made in paragraph 4.12 of the WS, the applicants while denying the contentions made therein beg to state that the respondents have advertised for various Group-D posts against which the applicants can be easily absorbed against any of them.
- 14) That with regard to the statement made in paragraph 8.13 of the WS, the applicants while denying the contentions made therein beg to reiterate and reaffirm the statements made above as well as in the OA.

15) That with regard to the statement made in paragraph 8.14 of the WS, the applicants while denying the contentions made therein beg to state that the applicants never try to mislead anybody. They are from the lower strata of the society. The applicants belong to the ST/SC community and as such they need special care from the society. The allegation made by the respondents is not at all tenable in the eye of law. If they do not have the original records then how the respondents can say that the claim of the applicants are not genuine. If the signatures of the casual labour cards are not tallying then those can be sent to the Hand Writing expert instead of rejecting the genuine claim of the applicants.

16) That with regard to the statement made in paragraph 8.15 of the WS, the applicants while denying the contentions made therein beg to reiterate and reaffirm the statements made above as well as in the OA. It is stated that the applicants have never tried to mislead the court. The applicants most humble submit that if the respondents do not have original records it is the lapses on their part. It is not the case of the respondents that they do not have records. If the respondents are in doubt of genuineness then the records along with casual labour cards are may be sent to the expert instead of thronging out the genuine claim of the applicants.

17) That with regard to the statement made in paragraph 8.16 of the WS, the applicants while denying the contentions made therein beg to state that the respondents have issued the said advertisement without first considering the claim of the applicants. Till today there are various posts lying vacant against which the applicants can be easily absorbed. Admittedly the applicants served the Railway Administration and the Railway authority being the model employer, the applicants can be absorbed against any group-D post. The applicant most respectfully submit that considering the facts and circumstances narrated above as well as in the OA, the Hon'ble Tribunal may be pleased to direct the respondents to absorbed the applicants against any Group- D after observing all formalities as per law.

18) That the applicants beg to submit that the applicants have their genuine claim and they are eligible to hold any Group-D post, hence the Hon'ble Tribunal may be pleased to allow the OA, the directing the respondents to absorbed the applicants against any Group- D post.

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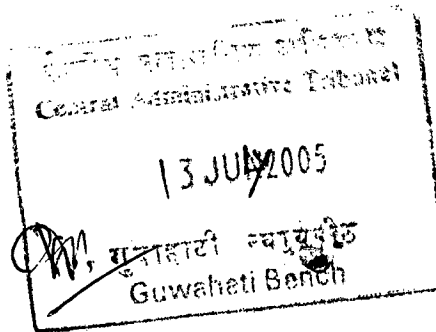
75

VERIFICATION

I Shri Ansuma Swargiary, aged about 36 years, son of Shri Nabin Swargiary, R/o 1st Jakmari P. O. Nij Daphali P. S. Tamulpur Dist Nalbari. I am one of the applicants in the present OA and who is taking steps in this case, being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statement made in paragraph 1, 2, 3, 4, 8, 14, 17 & 18 are true to my knowledge and belief, those made in paragraph 5, 6, 7, 9, 10, 11, 12, 13, 15 & 16 being matter of records, are true to my information derived there from and the rest are my humble submission before this Humble Tribunal. I have not suppressed any material fact.

And I sign this verification this 27th the day of April Ansuma^{Jr} Swargiary,
at Guwahati

DEPONENT



Filed by
the applicants through
Alsha Das,
Advocate
12/7/05

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 338/04

Dhaneswar Rahang & ORS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

IN THE MATTER OF

An additional rejoinder filed by the applicants

- 1) That the applicants beg to state that the applicants have to file the present additional rejoinder bring some facts which was inadvertently could not bring before the Hon'ble Tribunal. The Hon'ble Tribunal may be please the same as a part of the pleadings of the case.
- 2) That the applicants beg to state that this is the second round of litigation. Earlier the applicants along with other similarly situated persons approached the Hon'ble Tribunal by way of filing OAs No 43/02, 44/02 and 259/2002. In the OA No.259/02 the respondents filed their Written Statement on behalf of all respondents. In the WS filed in OA No.259/02 the respondents themselves have admitted that in the Bridge Division a panel of 715 men was drawn after screening daily rated casual labours who were born on various BRI units under DY.CE/BR/L/MLG and copy of the provisional list of Ex. Casual labour of Bride Division were sent to various BRI Units vide DY.CE/BR/L/MLG's office letter No.EW/255/1(B)/Pt.II dated 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.
- 3) That the respondents again admitted that one ex. Casual Labour named Shri Habul son of Ruplal 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.

A copy of the WS filed in OA No.259/02 is annexed herewith and marked as Annexure-12.

- 4) That the applicants beg to state that after the judgment of the Hon'ble Tribunal the applicants filed their application along with their records (Photocopy) before the respondents. Then the respondents issued a letter-dated 13.06.2002 by which the applicants were asked to submit original records for verification of their service particulars. Accordingly the applicants have submitted their original records before the respondents, which is still with the respondent authorities.

A copy of the letter-dated 13.06.2003 is annexed herewith and marked as Annexure-13.

VERIFICATION

I, Shri Son of Nabin Swangma,
at present working as

Resident of 1st Taranani, P.O. Nij Daphati who is one of
the applicants and
taking steps in the present OA and competent to sign this verification, do hereby

solemnly affirm and state that the statement made in paragraph 1, are
true to my knowledge and belief, those made in paragraph 2 to 4 are matter
of records, are true to my information derived there from and the rest are my submission
before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 12th day of July 2005 at Guwahati

DEPONENT

for Ansum Swangma.

Copy for Applicants' Counsel.

Amme-1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT GUWAHATI

IN THE MATTER OF OA NO 259 OF 2002

SRI HABUL GHOSE AND 10 OTHERSApplicant

-VS-

1. UNION OF INDIA (Represented by GM, N.F. Railway)

2. The General Manager (Construction) Mailgaon.

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 want of} valid cause of action and / or right for filing the application.
3. That, the claims of applicants is vague and is not maintainable in its present form and is fit one to ^{be} 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 condonation petition appears to have been filed

Further, with the passage of time, various changes in office set up, record management and its upkeep/ retention etc. crops up and it becomes difficult to

(Could... to Page)

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as per
decrease

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 these 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 ~~before 01.01.81~~ 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^{ed} 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

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NDAS
Advocate

(Contd... to Page-)

the persons were initially engaged as Casual Labour. A copy thereof was also be sent to the Divisional (Open line) Railway Manager of the Division with territorial jurisdiction of the office from which the person was discharged. A 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/Pl.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 DY.CE/BR/L/MLG and copy of the provisional list of Ex. Casual labour of Bridge Division were sent to various BRI Units vide DY.CE/BR/L/MLG's office letter No. EW/255/1 (B)/Pl.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 GM (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 ~~vide~~ 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/Pl. 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

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was
Advocate

or of the applicant Shri Habul Ghose or of the other applicants in this OA 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 PLXIC dated 13-03-1987 to all concerned annexed as Annexure-III.

b) GM(P)/N.F. Railway/Maligaon letter No.E/57/O/PLXIC dated 13-03-1987 showing issuance of notice to open live Casual Labour as annexure-III/L

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/XIC 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

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Attested
Advocate

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 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.

10. 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.

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*Attested
was
Advocate*

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.

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 the

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*Attested
W.Das
Advocate*

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 enquires 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 enquires, 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.

*Attested
by
Advocate*

(Contd... to Page-)

VERIFICATION

86

- 11 -

I Mohinder Singh son of Shri Tika Ram aged about, 38 years, by occupation, Railway Service, working as Dy. CE / B.L. of the N.F. Railway Administration at Maligaon, 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 in 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

১৮ জুলাই ২০০৩
 প্রধান ইঞ্জিনিয়ার ব্রিজ, গুৱাহাটী
 Dy. Chief Engineer Bridge
 M. P. Bora, Guwahati



9- 12- 105/11
ANNEXURE - I 8x 60.2

Copy of Rly. Board's letter No.E(NG)II-84/CL/2 dated 4.5.1987 addressed to the General Managers, all Indian Railways & others.

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. eon 105/3

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 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)II-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, shall be 31. March, 1987. Representations along with 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 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.

Attested
Advocate

Government of India (Ministry of Railways (Rail Mantralaya) R.B.E.No. 43/87. 5034
(Railway Board)

New Delhi, dated 4.3.1987.

No. E(NG)II-78/CL/2.
(31-78/CL/2.

The General Managers,
All Indian Railways
including GLW/DLW/ICF & 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 Electrification,
Allahabad.

The CAO(R)/ DW
DCW/Patiala.

The COFMOW/New Delhi.

OSD/Rail Coach Factory,
Kapurthala, Jalandhar City.

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)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 for 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 in
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

Attended
was
Advocate

which they were initially engaged.

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

6. Hindi version will follow.

(Signature)
(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.

(Signature)
for Secretary, Railway Board.

Copy to:

PS/ME, MS, and Adv(IR).

Sr. PA/EDGE, EDW, EDE, DE(N), AEDE(C), AEDPC, AEDE(P&A) AEDE(T&I)
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(L&P)I, II, III with 5 spares.

Attested...
Advocate

11- ANNEXURE - II

- 15 -

SN 104 90

SN 35

IMMEDIATE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

N.PADMANABHAN

DIRECTOR ESTABLISHMENT(N)

D.O.No.E(NG)11/78/CI/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,

N. Padmanabhan

(N.PADMANABHAN)

DA/One

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

Copy to be with a copy of letter dated 2.3.1987
to Shri.

Attested
N. Das
Advocate

608

-12-
ANNEXURE - (19)

N. F. RAILWAY.

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

Dated 13.3.1987.

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

To

ALL DEMS,
Dy. CE/En. Line/PNO,
ZEN/PNO, DSTE/MW/PNO,

Sub:- Casual labour- maintenance of Line Casual
labour register.

...
A copy of Rly. Board's letter No.E(NG)II-78/GE/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.

for GENERAL MANAGER(P).

Copy to CE, DSTE, ZEN with 20 copies of Notice.

Encl:- As above.

for GENERAL MANAGER(P).

Attested
was
Advocate

S/comm gum
to APO/E-1

N. F. RAILWAY.

No. E/57/O/Pl. XI (C).

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 M1 should also accompany the application -
 14. Any other relevant information -

SN 107

For Divisional Manager (P),
N.F. Railway.

Attested
as
Advocate

MINISTRY OF RAILWAYS
(RAILWAY BOARD)

NO. EX. FC. 198/CL/32

New Delhi. dt. 7.9.93

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,
E(NG)1063/CL/13
dt. 16.9.93
E(NG)1073/CL/2
dt. 21.2.94
E(NG)1073/CL/2
dt. 22.11.94
E(NG)1073/CL/2
dt. 25.4.95
E(NG)1073/CL/30
dt. 12.6.97
E(NG)1073/CL/2
dt. 12.12.93

Board's letter No.
E(NG)1063/CL/13
dt. 16.9.93
E(NG)1073/CL/2
dt. 21.2.94
E(NG)1073/CL/2
dt. 22.11.94
E(NG)1073/CL/2
dt. 25.4.95
E(NG)1073/CL/30
dt. 12.6.97
E(NG)1073/CL/2
dt. 12.12.93

Board's letter No.
E(NG)1073/CL/2
dt. 21.2.94
E(NG)1073/CL/2
dt. 22.11.94
E(NG)1073/CL/2
dt. 25.4.95
E(NG)1073/CL/30
dt. 12.6.97
E(NG)1073/CL/2
dt. 12.12.93

1.1. Standardly 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 rail 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 regularisation 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 regularisation 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 regularisation 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 below any who may have rendered service 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 individuals 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 consideration 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

Attended
Advocate

(Deputy Clerk)
Director Establishment (H)

Northeast Frontier Railway

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

RECT-884.

E/57/0 Pt.XII (C)

Dated 12.98

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/57/0PtX.(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

[Signature]
DY.CPO/IR

For General Manager(P)
NF Railway, Maligaon

*Attested
Advocate*

1
3 copy
- 20 -
as
Annexure-2

NORTHEAST FRONTIER RAILWAY

REGISTERED WITH A/D

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

No.E/63/CON/1

Dated: 13-06-2003

To
Shri K. Urge Ram Daimary
S/o Maykrum Daimary
Vill - Hemdol
P.O. GOPALPUR, Dist. Kamrup (Assam)


Sub: CA No. 43/02 before CAT/Guwahati.

Ref: Your application in terms of order dated 01.5.2003 passed by
CAT/Guwahati.

In reference to your above mentioned application it is informed that records regarding your engagement as Casual Labour in Construction Organization are not available in this office As such it cannot be ascertained and verified whether you had worked as Casual Labour in this Construction Organization or not.

You are, therefore, advised to submit documentary evidence, if any, in support of your engagement on casual basis in Construction Organization within 14.07.2003, failing which it will be presumed that you have no records to prove your engagement in the Construction Organization as claimed and in the event of which your application under reference will summarily and automatically stand disposed of without any further correspondence from this end.

Please acknowledge the receipt of this letter.


(P.G. Johnson)
APO/Con

For General Manager/Con

Attested
HOA
Advocate