

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 281/2005

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SECTION OFFICER (Judl.)

FORM NO: @  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 281/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) on behalf of Binoi Bora (30)  
Respondent(s) W.B. I. T. B.M.

Advocate for the Applicants Mr. U. K. Maji  
Mr. B. Sarma

Advocate for the Respondent(s) Mr. S. Sarma CCSE  
Rly St. Counsel

Notes of the Registry	Date	Order of the Tribunal
	<u>16.12.2005</u>	Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

This application is in form  
Filing Fee Rs. 50/-  
posted via IPB.  
No. 266318998  
Dated 5.11.05

*G. Maji*  
Dy. Registrar  
*Chm*

*NS*  
*15.12.05*

Steps not taken

*Q.D.*

Effects removed to-day

*NS*  
*15.12.05*

Notice & order sent  
to D/Section for  
issuing to resp.  
Nos. 1, 2 & 3 by regd.

A/D post. D/No. 28 to 30

cc 5/1106 DT 9/1106

*mb*

Heard Mr. B. Sarma, learned counsel  
for the applicant and Mr. J.L. Sarkar,  
learned standing counsel for the Railways

Admit. Issue notice to the respondents.

Since the applicants claim the  
benefits of the order dated 19.7.2005  
passed in O.A. Nos. 336/04, 337/04 and  
338/04 (Annexure - 6), the respondents  
are directed to file a counter affidavit  
within six weeks. No further time will  
be granted.

Post on 30.1.2006.

*2/Jan/06*  
Vice-Chairman

Contd....

30.1.2006

Notice duly served  
on resp. No-1

Dr. J.L. Sarkar, learned Standing  
counsel for the Railways submits that  
six weeks time may be granted to file  
written statement. Let it be done.

post on 16.3.2006.

25/1/06.

27-1-06

bb

Vice-Chairman

① Notice duly served  
on R-No-1, other  
respondents are  
awaited.

16.3.2006

Dr. J.L. Sarkar, learned standing  
counsel for the railways seeks for  
six weeks time to file reply statement.

Post on 1.5.2006.

② No Affidavit has  
been filed.

Vice-Chairman

mb

1.5.2006

Dr. J.L. Sarkar, learned Railway Stan-  
ding counsel was represented and some  
more time was sought to file reply  
statement on his behalf. Let it be done.  
post on 5.6.2006.

1/2/06  
Notice duly  
served on  
resp. no-2

(C.R.)

15-3-06

no affidavit on Dr.  
Pawan was filed  
and by Mr. K. Biswas.

28/4/06

28-4-06

no w/s filed

bu.

bb

1.5.2006

Mr. K.K. Biswas, learned Railway  
counsel requests for some more time to  
file reply statement. Let it be done.

post on 5.6.2006.

Vice-Chairman

1.6.06  
w/s submitted  
by the Appellants.

w/s have been filed.

28-6-06

05.06.2006

Learned counsel for the respondents submitted that he has already filed reply statement. None present for the applicant. However, opportunity is given ~~to~~ to file rejoinder, if any.

Post on 27.06.2006.

26-6-06

No rejoinder has been filed.

23

Vice-Chairman

mb

27.06.2006

Learned counsel for the applicant wanted time to file ~~rejoinder~~ rejoinder.

Post on 31.07.2006.

28-7-06

(A) filed by the  
Respsd.

bm

Vice-Chairman

mb

31.07.2006 Present : Hon'ble Sri K.V.

Sachidanandan, Vice-Chairman

Hon'ble Sri Gautam Ray,  
Administrative Member.

22-8-06

No Rejoinder has  
been filed.

23

SL  
Member (A)

Vice-Chairman

mb

23.8.06

When the matter came up for hearing the learned counsel for the applicant has submitted that he wants to file rejoinder alongwith certain documents.

Post the matter on 4.9.06.

AI

lm

Vice-Chairman

18.9.2006

post the ~~case~~ case on 26.10.2006.

Vice-Chairman

bb

26.10.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

On behalf of the learned Counsel for the Respondents submitted that he has got some personal inconvenience. Post on 21.11.2006.

The case is ready  
for hearing

Res.  
20.11.06

/mb/

Vice-Chairman

21.11.2006 At the instance of Mr.K.K.Biswas, learned Railway Counsel let the case be posted on 30.11.2006 for hearing.

22-11-06  
Reply submitted  
by Respondents in response  
to Additional affidavit  
by the applicants.

Vice-Chairman

bb

Res.  
30.11.2006

When the matter came up for hearing, Mr.B.Sarma, learned counsel for the applicants submitted that identical matters have already been filed before this Tribunal in 2006 and the present case may be tagged along with those connected matters.

Now, the crux point, to be considered, is as to whether the directions issued to the respondents to consider the case of the applicants based on xerox copies of the Casual Labour Live Register, vide judgment and order dated 19.7.2005 passed in O.A. Nos. 336, 337 & 338 of 2004 can be

Contd.P/2

Contd

30.11.2006 issued in this present case also granting reliefs, if any, to present applicants.

Mr.K.K.Biswas, learned Railway Counsel submitted that those cases as mentioned by counsel for the applicants are new and pleadings are not complete in those matters. However, Registry is directed to pinpoint all the connected and identical matters to this O.A. and tag this matter alongwith those identical matters.

1-12-06

Tagged alongwith OA  
n/ 261, 262, 263/06 which  
are fixed to orders on  
14-12-06.

On/  
CO.

Vice-Chairman

/bb/

The case is ready  
for hearing.

14.12.2006 Learned counsel for the applicant  
is absent. Mr.K.K.Biswas, learned  
counsel for the Railway is present.  
Post on 16.1.2007.

23  
15.1.07.

Vice-Chairman

The case is ready  
for hearing.

bb

16.1.2007 Post on 01.02.2007.

24  
28.3.07.

Vice-Chairman

/bb/

29.3.07. Let this case be listed alongwith O.A.Nos.

261, 262, 263 of 06 on 1.5.07.

The case is ready  
for hearing.

Vice-Chairman

25  
30.4.07.

lm

1.5.07 Post the matter on 17.5.07  
alongwith O.A.No.261,262, 263 of 06.

The case is ready  
for hearing.

Vice-Chairman

26  
16.5.07.

lm

17.5.07. Post the matter on 30.5.07 alongwith  
similar matter O.A.Nos. 261, 262, 263 of 06.

The case is ready  
for hearing.

lm

30.5.07.

Heard learned counsel for the parties  
Hearing concluded. Judgment reserved.

27  
29.5.07.

lm

Vice-Chairman

14.6.2007

Judgment pronounced in open Court,  
kept in separate sheets.

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

  
Vice-Chairman

/bb/

Received 5 (five) Casual Labour cards  
of Dilip Choudhury, Monj Kumar  
Basmatary, Lakhi Boro, Open Boro,  
Samal Boro in connection with  
O.A. 281/05 - Siz Ajant Boro & O.S.

Rukhsana

19-06-2007

Rly. Counsel,  
CAT/Guwahati

20.6.07

Certified copy of the  
judgment has been  
collected by the  
L/Dr. by the party.

R.S.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI  
O.A. NO. 281/05, OA 261/06, OA 262/06 & OA 263/06

Date of decision: 14<sup>th</sup> June, 2007

Ajanta Boro & others .. Applicants  
Mr. B.Sarma and Mr. H.K.Sarma .. Advocates for  
applicants

Versus

Union of India & others .. Respondents  
Mr. K.K.Biswas .. Advocate for the respondents

**CORAM**

The Hon'ble Shri K.V. Sachidanandan, V.C.

1. Whether reporters of local newspapers may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. whether to be forwarded for including in the Digest being compiled at Jodhpur Bench and other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the judgment? Yes/No

Vice-Chairman

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI**

[1] O.A. No. 281 of 2005

[2] O.A. No. 261 of 2006

[3] O.A. No. 262 of 2006

[4] O.A. No. 263 of 2006

Date of decision, this day the 14 of June, 2007

**CORAM: The Hon'ble Shri K.V.Sachidanandan, Vice-Chairman**

**[1] O.A.No. 281 of 2005**

1. Sri Ajant Boro, s/o sri Moniram Boro.
2. Sri Bires Ch.Boro,s/o sri Jogen Boro.
3. Sri Dilip Choudhury, s/o sri Rameshwar Choudhary.
4. Sri Rabindra Boro, s/o sri Chandra Kt.Boro.
5. Sri Lachit Kr.Basumotory,s/o sri Pura ram Basumotary.
6. Sri Pabitra Wary, s/o sri Mahim Wary.
7. Sri Ram Nath Thakuria,s/o Sri Dayal Thakuria.
8. Sri Moni Ram Boro, s/o Umesh Boro.
9. Sri Jiten Boro, s/o Bipin Boro.
10. Sri Upen Boro, s/o Bhanda Boro.
11. Sri Rajen Swargiary,s/o Haloi Ram Swaragiary.
12. Sri Makthang Daimary, s/o Langa Daimary.
13. Sri Ratan Ch. Boro, s/o Late Jamuna Boro.
14. Sri Kartik Narzary, s/o Baya Ram Narzary.
15. Sri Warga Ram Daimary, s/o Maya Ram Daimary.
16. Sri Bipul Ramchiary, s/o Sri Agin Ramchiary.
17. Sri Monoa Kr. Basumatry, s/o Sri Jogeswar Basumatry.
18. Sri Lalit Ch. Boro, s/o Sri Durga Boro.
19. Sri Girish Ch Basumatary, s/o Sri Sambar Basumatary.
20. Sri Maheswar Boro, s/o Late Benga Boro.
21. Sri Budhan Ramchiary, s/o Sri Madhab Ranchiary.
22. Sri Ananta Shargiry, s/o of Late Bimal Shargiry.
23. Sri Bipin Daimary, s/o Sri Nabin Daimary.
24. Sri Kanistha Basumatary, s/o Sri Jogendra Basumatary.
25. Sri Samala Boro, s/o Hasa Ram Boro
26. Sri Bapa Ram Boro, s/o Sri Mohan Boro.
27. Sri Lakhi Boro, s/o Nawa Boro.
28. Sri Achut Ramchiary, s/o Rajen Ramchiary.
29. Sri Nandi Daimary, s/o Jabla Daimary.
30. Sri Dinesh Ch.Boro, s/o Ana Boro.

**Applicants**

By Advocate: Mr. B.Sarma



**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

By Advocate: Mr. K.K.Biswas

**[2] O.A. No. 261 of 2006**

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

All are ex-casual labourers working under the respondents.

Applicants

By Advocate: Mr. H.K.Sarma

**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

By Advocate: Mr. K.K. Biswas.

**[3] O.A.No. 262 of 2006**

1. Sri Suren Ramchary
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. Shri Naren Ch.Boro.

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

Applicants

By Advocate: Mr. H.K.Sarma

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] Alipurduwar  
Division, N.F.Railway, Alipurduwar.

Respondents

By Advocate: Mr.K.K.Biswas.

[4] O.A.No. 263 of 2006

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
11. Sri Pradip Kr. Boro

C

12. Sri Ugen Narzary.  
 13. Sri Tarun Ch. Boro  
 14. Sri Ramesh Ch. Ramchiary  
 15. Sri Monoranjan Deori.  
 16. Sri Ram Nath Pathak.  
 17. Sri Gopal Basumatary.  
 18. Sri Malin Kr.Das.  
 19. Sri Ranhit 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 Daimary  
 31. Sri Asnuma 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. Shri 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**

By Advocate; Mr. H.K. Sarma

**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**

By Advocate: Mr. K.K. Biswas

## ORDER

K.V.Sachidanandan-Vice-Chairman:

There are 30 applicants in O.A. 281/05, 11 applicants in OA 261/06, 17 applicants in OA 262/06 and 41 applicants in OA 263 of 2006. Most of the applicants had earlier approached this Tribunal in OA No.255 of 2003, O.A.No. 336/04, OA. No.337/04 and O.A.No.338/04. All the applicants are ex-casual labourers under the respondents-Railways in various Divisions and their grievances are identical/similar to appoint them against Group 'D' posts on regularization of their services. They have sought the following identical reliefs:

1. To set aside and quash the impugned orders dated 18.1.04 and 16.3.05 as the same are in violation of the principles of natural justice and not sustainable in the eye of law.
2. To direct the respondents to consider the cases of the applicants and appoint them against vacant Group 'D' posts available for filling up SC/ST backlog vacancies.
3. To direct the respondents to keep the posts vacant for the applicants till consideration for appointment of the applicants.
4. To direct the General Manager, N.F.Railway, Maligaon to issue necessary approval towards the appointment of the applicants.
5. To Direct the respondents to issue necessary order of absorption to each applicant after observing the formalities as prescribed, with retrospective effect that is from the date on which junior to the applicants were absorbed with all consequential service benefits.

2. Since the issue involved in all the four applications are identical and the applicants are identically/similarly placed employees, having a common grievance, these matters are



disposed of by way of one common order with the consent of the parties.

3. The facts of the case are that the applicants were engaged as Casual Labourers in various stations of the N.F.Railway and performed their duties to the satisfaction of all concerned. According to them, the applicants acquired eligibility for conferment of the benefits of Temporary Status as well as other benefits admissible under the law. They were entrusted the duties of Khalasi similar to regular Group 'D' employees. The applicants represented to regularize their services as per law but ultimately did not yield in a fruitful result. Thereafter, they were verbally terminated and instructed not to attend office any more. Even after such discharge, the applicants continued to perform their duties with some artificial breaks. During their disengagement and break period, the respondents engaged outsiders as Khalasi with intention to frustrate the claim of regularization of the applicants. The respondents duly maintain a Live Register incorporating therein the names of all Casual Mazdoors in order of seniority. The claim of the applicants is to regularize their services under the provisions of law. Some of the similarly situated Ex-Casual Labourers approached this Tribunal by way of filing O.A. No. 79 of 1996. The Court directed the Railway to consider their cases within a stipulated time. The applicants of the said O.A. have been granted benefit of Temporary Status. The case of the applicants is that though they

are similarly situated to the applicants in O.A.79/96, but their cases were not considered in the screening held by the respondents and as such they were deprived of an opportunity for consideration of their cases for appointment on regular basis under the respondents. The respondents ought to have extended similar benefits to the present applicants and the present applicants were discriminated in the matter of appointment. Several representations made to the authorities did not accede and the N.F. Railway Union also took up their cases through representations and correspondences but till date nothing came in affirmative, and then the present OAs have been filed.

4. The applicants earlier preferred OA. 255/03, O.A.336/04, O.A.337/04 and O.A.338/04 in which this Court directed the applicants to submit their representations giving the details of their services as far as possible and the respondents were directed to dispose of the same. Copies of the judgments are produced along with the OAs. Some of the applicants were directed to produce documentary evidence relating to Identify Cards and their cases have been rejected on the ground that genuineness of the Identity Cards could not be established, and finally the claims of the applicants were rejected by impugned orders of the respective OAs. These impugned orders are challenged on the ground of being illegal, arbitrary and violative of natural justice.

5. The respondents have filed a detailed reply statement contending that the records produced by the applicants were

proved to be false, fabricated, frivolous and fake. The records produced by the applicants were initially examined by the respondents with the records kept in the office so as to examine the veracity and their genuineness to entertain the claim. The respondents also took the opinion of the Forensic Department. Opinion of the Expert on this aspect are submitted as Annexures 1 and 2 which shows that that the Casual Labour Cards produced by the applicants did not corroborate with the signatures of the applicants in the official records. Therefore, the respondents have stated that the documents produced by the applicants appear to be fake, fabricated and false. This is the second round of litigation on the same subject. The Court in the earlier OAs directed the respondents to dispose of the representations of the applicants. The respondents disposed of their representations after examining their cases on merits, and being aggrieved the applicants filed contempt petitions which were disposed of by the court. The Railway Board directed all the Zonal Railways for an action plan for absorption of all casual labours on roll and whose names were in the live casual labour register/supplementary casual labour register. A drive was launched by the Railway Administration to absorb all the discharged casual labours after verification of representations/applications with the original casual labour certificates of engagement. There was no application for absorption/regularization from the applicants.

6. Casual Labour Card in terms of the instructions of the Ministry of Personnel, Public Grievances and Pensions, it is only kept for three years. In this case, the claim pertains to the year 1984, that is, more than 20 years. Annexure-2 is copy of such circular. After disposal of earlier OAs 255/03, 336/04, 337/04 and 338/04, the applicants are agitating the same matter in these OAs but the matters have been finally disposed of and contempt petitions also closed by this Tribunal. The applications are barred by limitation. The applicants have not approached the respondents to settle their grievances but they have directly approached the Tribunal violating the A.T. Act. On verification of records, the claims of the applicants are not tenable in the eye of law. There is no merit in the OAs and hence the OAs are liable to be dismissed.

7. The applicants, on the other hand, have filed additional affidavit by way of rejoinder, reiterating their contentions producing certain documents in order to establish that they were casual labourers. Photo copies of certain documents establish that they were casual labourers.

8. The respondents have also filed reply to the rejoinder again reiterating that the documents produced by the applicants are fake, fraudulent and their claims are not genuine.

9. The learned counsel appearing for the applicants and the respondents have taken me to various pleadings, evidence and materials placed on record. The learned counsel for the applicants

would argue that the original Casual Labour Cards have already been submitted to the respondents. Therefore, they do not possess the originals of the Casual Labour Cards and only photo copies are available which were produced. The other documents produced by the applicants would prove that the applicants were casual labourers. The photo copies produced by the applicants cannot be questioned since the finding of the Tribunal in the earlier OAs to dispose of the representations of the applicants on the basis of documents produced by the applicants. The respondents, in total violation of the directions of the Tribunal, called for opinion of the Forensic Expert. Moreover, the report of the Forensic Expert had only opined that signatures cannot be compared with the Xerox copies of the documents and, therefore, deliberately and willfully the respondents are denying the right accrued to the applicants.

10. The counsel appearing for the respondents persuasively argued that the documents produced by the applicants are fabricated and not genuine and on the basis of such a situation, the benefit cannot be extended to the applicants.

11. I have given due consideration and attention to the materials, evidence and arguments advanced by the learned counsel appearing for the parties. This is not the first round of litigation. Earlier also these applicants had approached this Tribunal in OA 255/03, OA 336/04, OA 337/04 and OA 338/04. In OA 336/04, a common order has been passed, along with OA

337/04 and 338/04, by a Division Bench of this Court dated 19<sup>th</sup> July, 2005: The relevant portion of the said judgment is quoted below:

“5. As already noted, the applicants had earlier approached this Tribunal by filing OA 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, the respondents shall examine the same as expeditiously as possible and take appropriate decisions thereon within a specified time. One such representation is Annexure-6 in the OA No.336/2004. We are sorry to note that 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 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 in 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 483 surplus ex-casual labours had to be re-engaged and therefore after 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, 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 OA

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336/2004 the earlier written statements filed by the Railways in OA 259/2002 and referred to in Annexure-5 judgment in OA 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.”

8. As already noted, the only reason for rejecting the claim of the applicants is that the casual labour identify 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 [Annexure-7 in OA Nos.336/2004 and 338/2004 and annexure-11 in OA 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 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 OAs are allowed as above. In the circumstances, there will be no order as to costs."

12. The clear finding of this Tribunal to the question as to whether Xerox copies can be relied upon is dealt with in para 6 of the judgment, as above. The Tribunal taking the decision of the Apex Court reported and discussed Supra in para 9 of the judgment, have come to the conclusion that the materials available have to be relied upon and these OAs have been allowed.

13. Now, the question is whether the respondents are justified in sending the entire matter to the Forensic Expert. It is true that the respondents have to find out whether the documents submitted by the applicants are genuine or not. But the respondents Railways cannot ignore all the documents submitted by the applicants. Whether it is Xerox copy or not, under the pretext of preservation of the period of three years, the respondents can cross-verify these documents with that available records with the Railways. If the contention of the Railways is that they do not have any records with them, the natural inference will be that the photocopies to be relied on. It is further pertinent to note that the applicants in the rejoinder have produced certain documents [Annexure-A], list of ex-casual labour sent by the Deputy Chief Engineer/Construction, N.F.Railway, Jogighopa, dated 17<sup>th</sup> July, 1995, which was certified by the P.W.I. on 1.2.1987, in

which some of the applicants figure in the list. These are correspondences from one office to another by a responsible Railway Officer in 1995. Merely stating that preservation of documents is for three years do not absolve the responsibility of the respondents in stating that the applicants were not casual labourers in the railways. There are certain procedure to be followed as per the Railways Rules that in case documents are to be destroyed, the entry should be there in the Register maintained for the same. The respondents have not been able to show any such register to prove that these documents have been destroyed by them. Therefore, their averment that the documents have been destroyed cannot be taken as a foolproof. It appears that no genuine efforts have been made out by the respondents to find out the claim of the respondents. On the other hand, they have shifted their responsibility to the Forensic Department in supersession of the direction of the Tribunal where this Tribunal categorically stated in the earlier OAs that the respondents have taken a plea that they are not having the original records then the respondents have to rely on the photocopies and other reliable records from the Railways and consider the case of the applicants individually. No such exercise has been done by the respondents and, therefore, this Court is not happy in the manner the claims of the applicants have been disposed of which has necessitated the applicants to come again by these



OAs. However, when the matter came up for hearing, the counsel for the applicants have taken my attention to the decision of this Tribunal in the case of Swapan Sutradhar and others vs. Union of India & others, O.A. No.203 of 2002, dated the 2<sup>nd</sup> June, 2004, wherein this Court has directed to re-examine the cases of the applicants therein by constituting a responsible Committee and scrutinize the cases of the applicants therein. For better elucidation, the said judgment is reproduced as below:-

Dated 2.6.2004

“O R D E R

K.V.Prahladan, Member[A]:

The applicants are working as Casual Workers under the General Manager, Telecom, Silchar, Silchar Secondary Switching Area. All of them were employed from 1987-88 onwards. The applicants approached this Tribunal by way of an OA No. 278 of 2000 for grant of Temporary Status. The Tribunal vide order dated 6<sup>th</sup> September, 2001 directed the applicants to make individual representation and the respondents were directed to consider the case of the applicants after scrutinizing all the available and relevant records. A Committee was constituted as per the direction in O.A. No.278 of 2000. The Committee found that none of the applicants completed 240 days in any year. Therefore, their claim for grant of Temporary Status was rejected by the respondents. The present Original application is against that order.

2. Mr. S.Sarma, learned counsel for the applicants pointed out that the Committee made numerous discrepancies in verifying the individual particulars of the applicants. In some cases it reveals that some of the applicants have been shown to be paid Rs.200/- per day and in some cases the applicants have been paid Rs.50/- per day. Their entitlements were not uniform. Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents has agreed to re-examine the entire records of the applicants.

3. In the circumstances, the respondents are directed to thoroughly scrutinize all the records of the applicants for regularization by a responsible Committee. This exercise should be completed within four months from the date of receipt of this order.

The application is accordingly disposed of. No order as to costs."

14. The counsel for the applicants submitted that they are amenable to such recourse since many of the applicants in the said OA were granted the benefit by such Committee. In the interest of justice, this Court is of the view that such a responsible Committee may be constituted by the respondents with senior officials for the purpose and the said Committee shall scrutinize the available records of the applicants, as per directions in OA 336/04 and if requested, by giving a personal hearing to each individual and consider the case individually and pass appropriate orders and communicate the same to the applicants within a reasonable period, in any case within four months from the date of receipt of this order.

15. The OAs are disposed of with the above directions. No order as to costs.



[K.V.Sachidanandan]  
Vice-Chairman

cm

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*Filed by:- Brijesh Sharma  
Advocate.*

**WRITTEN SUBMISSIONS BY AND ON BEHALF OF THE**  
**APPLICANTS IN O.A. 281/05**

**O.A. No. 281/ 05**

Sri Ajant Boro & ors

.....Applicants

Versus

The Union of India & ors.

.....Respondents.

**WRITTEN SUBMISSIONS**

By way of this instant Original Application the applicants have challenged the impugned orders dated 16.03.05 and 18.10.04 (Annexure – 5) by which the respondent authorities have rejected the claims of the applicants, who are ex-casual labourers, for re-engagement in Railway Service.

The applicants had earlier approached this Hon'ble Tribunal by way of preferring Original Application being O.A. No. 255/ 2003 praying for a direction upon the respondent authorities for their absorption in Railways service on the basis of their past services as casual labourers. This Hon'ble Tribunal upon consideration of the matter directed that the applicants would prefer representations before the respondent authorities giving particulars of their engagement in the Railways and the respondent authorities would consider the same. In terms of the said directives as passed by this Hon'ble Tribunal, the impugned orders at Annexure – 5 have been passed rejecting the claims of the applicants.

**GROUND FOR CHALLENGE OF THE IMPUGNED ORDERS:**

1. The consideration and rejection of the claims of the applicants by the respondents was not proper and is defective and the entire exercise undertaken towards consideration and rejection of the claim for absorption was arbitrary, illegal and one sided. The impugned orders does not disclose which authority had considered their cases and what were the relevant factors that lead to the rejection of their claims. The respondent authorities have only disclosed that the genuineness of their casual labour identity cards were not established and hence their claims were rejected.

The respondent authorities never afforded any opportunity to the applicants to establish the genuineness of the documents possessed by them and no personal hearing was afforded before rejection of their claims. Such action on the part of the Respondent authorities is not only arbitrary, but is also in violation of the principles of Natural Justice and as such the impugned orders are liable to set aside and quashed. The identity of the person who had issued the identity cards were known to the respondent authorities, but no steps were initiated to ascertain the genuineness of the said cards from the said person.

2. The respondents in their written statements have stated that since a doubt had arisen as to the genuineness of the casual labour cards, opinion of a forensic expert was sought for and the report of the forensic expert's substantiated the claim that the said identity cards were not genuine. Therefore, the claims of the applicant were rejected for re-engagement in Railway Service. On scrutiny of the impugned orders at Annexure – 5 it is revealed that the said orders were passed in the year 2004 and 2005 respectively, and the report of the forensic expert annexed to the written statement at Annexure – II was obtained in the year 2006, which clearly indicates that the respondent authorities could not have rejected the claims of the applicants on the basis of the said report. The entire exercise towards rejection of the claims of the applicants were carried out basing on the whims and caprices of the respondent

authorities in a most arbitrary and illegal manner and is required to be interfered with by this Hon'ble Tribunal.

3. The orders impugned (Annexure - 5) are exactly similar/ identical in nature and content. Further identical orders have been passed in cases of other similarly situated ex-casual laborers who had also raised grievances against the same before this Hon'ble Tribunal against their non-engagement in Railway service in O.A Nos. 336,337 and 338 of 2004 . This Hon'ble Tribunal had vide order dated 17.05.05 had directed for a reconsideration in the matter solely basing on the Xerox copy of the Casual Labour Live Register. The case of the present applicants is identical to that of the applicants in O.A Nos. 336, 337 and 338 of 2004 and their cases would be squarely covered by the said order dated 17.05.05. In view of the said position it is clear that the impugned orders came to be issued only with the view to somehow frustrate the claims of the said ex-casual labourers, including the applicants herein and there was no application of mind in the matter by the respondent authorities.

4. The Railway Authorities have taken a stand that the Xerox copies of the casual labour live register cannot be relied upon unless and until it is compared with the original copy of the said register. Further, they have also disputed the genuineness of the said Xerox copies, which claim according to them have been substantiated by the Forensic expert's report wherein it is opined that the signature appearing in the Xerox copies of the casual labour live register does not tally with the original signatures of the person finding place in the official records.

The question as to whether the Xerox copies of the casual labour live register can be relied upon or not has been elaborately dealt with by this Hon'ble Tribunal in its judgment and order dated 19.07.05 passed in the Original Application No. 336, 337 and 338 of 2004. The said judgment has not been appealed against nor any Review Application has been preferred against the said judgment and order dated 19.07.05. The said Judgment and order

dated 19.07.05 has attained its finality and the applicants in the instant application are praying for similar direction.

Regarding the forensic experts opinion it is humbly submitted that the said report is non-est in the eye of law and void ab-initio inasmuch as the forensic expert for arriving at its conclusions have compared the purportedly original signatures appearing in the official records of the Railway Authorities with the signatures appearing in the Xerox copies of the casual labour live register, which is not at all permissible in the eye of law. The entire exercise undertaken by the respondent authorities in the name of consideration of cases of the applicants is a farce and there is no transparency in the same.

5. This Hon'ble Tribunal was never taken into confidence while the respondent authorities had sent the documents for verification before the forensic experts. In view of the fact that this Hon'ble Tribunal has specifically directed to ignore the casual labour identity cards and consider the cases of the ex-casual labourers on the basis of the Xerox copies of the casual labour register, if any doubt arose as to the genuineness of the said documents necessitating obtaining of forensic experts opinion, the respondent Railways could have taken leave of this Hon'ble Tribunal for taking that course of action, which is not the case. The entire exercise towards sending the documents for forensic experts opinion by-passing the Judgment & Order of this Hon'ble tribunal is highly contemptuous. The steps taken in the matter clearly indicates the malafide existing in their minds against the applicants and also the determination on the part of the authorities to reject the claims of the applicants under any circumstances. A model employer like the respondents ought to have undertaken the consideration directed to be made by this Hon'ble Tribunal in a transparent and responsible manner, which is absent in the case ~~on~~ hand. It can be safely concluded that the consideration made in the cases of the applicants is no consideration in the eye of law.

Further, whether any document is to be sent before the forensic expert for its opinion is a question that is to be decided by the court, if at all any doubt arises as to the genuineness of the documents. This Hon'ble Tribunal having

held that the Xerox copies of the casual labour register be relied upon towards considering the cases of ex-casual labourers for re-engagement in railway service, there should not have been any occasion for the forensic experts opinion.

Again, the stand of the respondent authorities that they had sent the original signatures of the persons finding place in the official records who had allegedly signed on the Xerox copy of the ex-casual labour register and the casual labour identity cards cannot be taken for granted. The identity of the purported original signatures having not been established and this Hon'ble Tribunal having not been taken into confidence while undertaking the exercise towards sending the documents for verification before the forensic experts, the said reports by the forensic experts is a nullity and void ab-initio.

In view of the above, the applicants humbly pray before Your Lordship to direct the respondent authorities to reconsider their cases by constituting a committee of high ranking and responsible officers and to undertake the said exercise strictly in terms of the directives passed by this Hon'ble Tribunal vide order dated 17.05.2005 in Original Application No 336, 337 and 338 of 2004.

Filed By:-

*Brigesh Sharma*

Advocate

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16 NOV 2005

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संवादी संघर्षी  
C.W. 186

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT GUWAHATI

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Filed by:- Brijesh Sharma  
Advocate

O.A. NO:- 281 /2005

Sri Ajant Boro & ors

..... Applicants

- Versus -

Union of India & ors

..... Respondents

### SYNOPSIS

The applicants before your Lordship are all ex-casual labourers who had approached this Hon'ble Tribunal on earlier occasion vide original application bearing O. A. No. 255/ 2003 praying for a direction upon the respondent authorities towards regularisation of their services against any Group - D posts. This Hon'ble Tribunal upon hearing the parties and on being satisfied as regards the rules and procedure governing the field in question, directed the respondents therein vide its order dated 07.01.04 to consider the cases of the applicants within a time frame of 3 months from the date of preferring representations in this behalf by them. As directed, the applicants preferred representations before the concerned authorities and the same were disposed of with similar and identical orders dated 18.10.04 and 16.03.05 (Annexure - 5 series) thereby rejecting the claims of the applicants. Being aggrieved by the said impugned orders, the applicants have preferred the instant application seeking urgent and immediate relief's.

It is pertinent to mention here that similarly situated persons had approached this Hon'ble Tribunal vide original application being O.A. No. 336/ 04, O.A. No. 337/ 04 and O.A. No. 338/ 04 impugning orders similar and identical in nature and upon hearing the parties at length this court was pleased vide its order dated 19.07.05 (Annexure - 6) to direct the respondent authorities for considering the cases of the applicants on the basis of the records (i.e. Original/ Xerox copies of the live/ supplementary register of the casual and ex-casual labourers) available with them. The applicants herein also pray for a similar direction from this Hon'ble Tribunal for redressal of their genuine and bonafide grievances failing which their miseries would know no bounds.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: AT GUWAHATI.

ORIGINAL APPLICATION NO. 281 /2805.

1. Sri Ajant Boro, S/o- Sri Moniram Boro.
2. Sri Bires Ch. Boro, S/o- Sri Jogen Boro.
3. Sri Dilip Choudhury, S/o- Sri Rameshwar Choudhury.
4. Sri Rabindra Boro, S/o- Sri Chandra Kt. Boro.
5. Sri Lachit Kr. Basumotory, S/o- Sri Puna ram Basumotary.
6. Sri Pabitra Wary, S/o- Sri Mahim Wary.
7. Sri Ram Nath Thakuria, S/o- Sri Dayal Thakuria.
8. Sri Moni Ram Boro, S/o- Umesh Boro.
9. Sri Jiten Boro, S/o- Bipin Boro.
10. Sri Upen Boro, S/o- Bhana Boro.
11. Sri Rajen Swargiary, S/o- Haloi Ram Swargiary.
12. Sri Makthang Daimary, S/o- Langa Daimary.
13. Sri Ratan Ch. Boro, S/o- Late Jamuna Boro.
14. Sri Kartik Narzary, S/o- Baya Ram narzary.
15. Sri Warga Ram Daimary, S/o- Maya ram Daimary.
16. Sri Bipul Ramchiary, S/o- Sri Agin Ramchiary.
17. Sri Monoa Kr. Basumatry, S/o- Sri Jorgeswar Basumatry.

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Filed:- The Applicant  
through → Brijesh Sharma  
Advocate

18. Sri Lalit Ch. Boro, S/o- Sri Durga Boro.
19. Sri Girish Ch Basumatary, S/o- Sri Sambar Basumatary.
20. Sri Maheswar Boro, S/o- late Benga Boro.
21. Sri Budhan Ramchiary, S/o- Sri Madhab Ranchiary.
22. Sri Ananta Shargiriy, S/o- Late Bimal Shargiriy.
23. Sri Bipin Daimary, S/o- Sri Nabin Ch. Daimary.
24. Sri Kanistha Basumatary, S/o- Sri Jogendra Basumatary.
25. Sri Samala Boro, S/o- Hasa Ram Boro.
26. Sri Bapa Ram Boro, S/o- Sri Mohan Boro.
27. Sri Lakhi Boro, S/o- Nawa Boro.
28. Sri Achut Ramchiary, S/o- Rajen Ramchiary.
29. Sri Nandi Daimary, S/o- Jabla Daimary.
30. Sri Dinesh Ch. Boro, S/o- Ana Boro.

Applicants.

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, Assam.

Respondents.

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

This application is directed against the similar and identical orders dated 18.10.04 and 16.03.05 passed by the APO/ Con for General Manager/ Con thereby rejecting the claim of the applicants for regularisation of their services against any Group - D post under the respondents.

**2. JURISDICTION:**

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

**3. LIMITATION:**

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

**4. FACTS OF THE CASE:**

**4.1** That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India and Rules framed there under.

**4.2** That all the applicants are ex-casual labours and their grievances, subject matters are similar in the

nature and hence they crave leave of this Hon'ble Tribunal to join together in a single application invoking its power under Rule 4 (5) (a) of CAT, (Procedure) Rules of 1987.

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

**4.4** That after such appointments they had to perform their normal duties as Khalasi under the respondent authorities. Their such duties and responsibilities were similar to the duties and responsibilities of regular Group - D employees. The applicants during their service tenure made request to the concerned authority for their conversion to regular employee and accordingly in fact the concerned authority took up their cases for conversion to regular employee as per law but the process ultimately did not yield any

fruitful result. However suddenly the respondents issued verbal instructions to the applicants not to attend office any more. Even after such discharge the applicants continued to perform their duties with some artificial breaks. Applicants protested the aforesaid action of the respondents but inspite of assurance nothing yield inpositive.

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

4.6. That the applicants state that various Unions took up the matter of the applicants along with other similarly situated ex-casual workers. It is pertained to mention here that some of the similarly situated ex-casual workers approached this Hon'ble Tribunal by way of filing O.A. No. 79 of 1996 praying for a direction towards their absorption under the respondents. The

aforesaid OA was disposed of by judgment and order dated 11.11.99 directing the Railway respondents to consider their cases within a stipulated time frame.

A copy of the judgment and order dated 11.11.99 is annexed as Annexure - 1.

**4.7** That after the pronouncement of the aforementioned judgment the respondents took initiative for ex-post facto approval by the General Manager, Railway and the applicants of the said OA have been granted with the benefit of temporary status. The respondents in implementing the Annexure - 1 judgment issued call letter to those applicants of OA No79 of 1996 for attending screening test and after the screening they got their absorption in the Group - D post. However, the respondents confined the said benefits only to those applicants of OA No. 79 of 1996. In fact, present applicants are also similarly situated like that of those applicants and the respondents ought to have extended similar benefits to the present applicants.

**4.8** That the applicants states that although they are similarly situated like that of those applicants in OA. 79 of 1996, their cases were not considered in the screening held and as such they were deprived of an opportunity for consideration of their cases for regular absorption under the Railways. Persons who were called for the said screening test held in the month of Dec'99, thereafter got their absorption against Group - D post. To that effect the respondent authorities

issued a memorandum dated 21.04.2000 publishing a list of selected screened ex-casual workers. It is pertinent to mention here that most of those selected ex-casual workers are junior to the present applicants and as such the present applicants were discriminated in the matter of appointment.

A copy of the memorandum dated 21.04.2000 is annexed as **Annexure - 2**.

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

**4.10** That the applicants state that during their service tenure the authority concerned took up the matter of the applicants for their absorption against Group- D vacancies, but due to reasons best known to the said authorities process of absorption was kept in cool storage. It is pertinent to mention here that the Railway Board by its letter bearing No. E (NG) 11/ 98/ CL/ 32 dated 09.10.98 issued categorical instruction to all the zonal heads to fill up the Group - D vacancies by the Ex-casual workers born on live/ supplementary

Casual Labour Register within a stipulated time frame. Instructions have also been issued to verify the records of all the casual/ ex-casual workers so that they can be absorbed accordingly in the Group - D establishment. The aforementioned letter dated 09.10.98 is not available with the applicants but reflection of the same can be verified from the letter dated 11.05.99. But the respondents did not implement the instructions contained in the said letter issued by the railway Board and for that the applicants are now nowhere. Juniors to them are enjoying the benefits of absorption and applicants who could not approach the door of the court are discriminated.

An extract of the letter dated 11.05.99  
is annexed as Annexure - 2.

4.11. That the applicants beg to state that their employment as well as the number of working days are not in dispute. The service particulars of the applicants are very much available with the respondents. As per the instructions contained in the Railway Board's letter dated 09.10.98, the respondents ought to have taken initiative in the matter regarding verification of records of the applicants and as per their seniority ought to have regularised their services against the Group - D vacancies. The Mazdoor Union represented the matter of the applicants enclosing their bio-data to the said union. On the other hand recently the respondents have issued various advertisements to fill up Group - D post under the

Railway ignoring claim of the applicants. As per procedures as well as the instructions contained in the Railway Boards letter the respondents ought to have taken initiative to fill up those posts by the applicants who are the experienced hands but having not done so they have violated the settled principles of law as well as the instructions contained in the Railway Board letter.

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

applicants.

4.13 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. 255/ 03 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 N.F. Railway, Maligaon to issue necessary approval towards the appointment of the applicants.

That applicants state that the Hon'ble Tribunal after hearing both parties was pleased to disposed of the said OA directing the applicants to submit their representations highlighting their grievances therein to the respondent authorities narrating all the facts within one month from the date of receipt of the order and after filling such representations within that time the representations shall consider the same as expeditiously as possible preferably within three months from the date of receipt of the same and take appropriate decision as per law.

A copy of the judgment and order dated 07.01.04 passed in OA no 255/ 03 is annexed as **Annexure - 4.**

4.14 That the applicants beg to state that the applicants filed their detail representations narrating their grievances within the time prescribed by this Hon'ble Tribunal. Thereafter vide similar and identifical orders dated 18.10.04, the representations preferred by all the applicants excepting applicant No. 1 and applicant no. 10 were disposed of by directing them to submit further documentary evidence in support of their engagement on casual basis under the respondent authorities. The cases of the other two applicants i.e. applicant no. 1 and applicant no. 10 were rejected vide order dated 16.03.05 on the ground that the genuineness of their casual labour identity cards could not be established.

Copies of the orders dated 18.10.04 and 16.03.05 as issued to applicant No. 1 & 2 are annexed as **Annexure 5** series.

The applicants crave leave of this Hon'ble Tribunal to produce the copies of the order dated 18.10.04 and 16.03.05 as issued to them individually as and when required of them.

4.15 That your applicants state that similarly situated persons approached this Hon'ble Tribunal by preferring Original Application being O.A. No. 336/ 2004, O.A. No. 337/ 04 and 338/ 04 praying for a direction upon the respondent authorities towards setting aside and quashing of similar and identical orders as have been

impugned in this instant application and this Hon'ble Tribunal was pleased vide its judgment and order dated 19.07.05 passed in the above mentioned Original Applications to direct the respondents therein to consider the cases of the applicants therein on the basis of their own records, the original/ xerox copies of the casual and ex-casual live/ supplementary register etc. The applicants herein also pray for a similar direction in view of the similar and identical nature of the grievance as raised in the above referred Original applications.

Copy of the judgment and order dated 19.07.05 is annexed as **Annexure - 6.**

**4.16** That the applicants beg to state that the action of the respondents in passing the impugned orders dated 18.10.04 and 16.03.05 is per-se illegal, arbitrary and in violation of the principles natural justice. The respondents did not give any personal hearing at the time passing the order. The names and service particulars of the applicants are available in the records of the respondent authorities. Therefore it was incumbent upon the respondent authorities to consider the cases of the applicants on the basis of those records as finding place in the official records of the respondent authorities. Rejection of the claims of the applicants without giving them personal herein thereby verifying the veracity of their claim vis-`-vis the records available in the office of the respondents is

per-se illegal, arbitrary and discriminatory and speaks volume of the indifferent attitude adopted towards sidelining the applicants for rejecting their claims and granting such benefits to the blue eyed boys of the respondents in O.A No. 79 of 1996 whose claims to the aforesaid Group - D post are no better then those of the applicants.

**4.17** That the applicants beg to state that the method which has been adopted at the time of disposing of the representations filed by the applicant is not at all suitable and liable to be set aside. The respondents at the time of disposing of the representation of the applicants had not taken into consideration the documents and records available with them which clearly establishes the claims of the applicants and on other hand asking them to furnish further documentary evidence towards establishing the same clearly indicates the indifferent attitude adopted against them. Since the records contain the identity cards along with the photographs, so the respondents must first take into consideration the photograph of the applicants and then must give personal hearing to them.

**4.18** That the applicants beg to state that the respondents themselves have admitted that the name and bio-data of the applicants are found to be in order. Also admitted by the respondents that after verification the casual labour service cards of the applicants and name were found to be in order, but

could not confirmed their 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 suitable in the eye of law.

4.19 That the applicants beg to state that the respondents are in the process of making fresh appointment against the available and vacant Group - D post without at-all considering the better claims of the applicants against the posts in question. In such an event the applicants would be deprived of their genuine and bonafide claim against the posts in question. As such the applicants pray that your lordships would graciously be pleased to pass an interim direction restraining the respondent authorities from effecting fresh appointments against any vacant and available posts under the respondents. In event of not granting the interim order as prayed for, than the applicant will suffer irreparable loss and injury.

4.20 That in the event of your lordship 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.

**4.21** That the applicants are all qualified to hold Group - D post under the respondents as they have completed requisite number of working day and the respondents ought to have initiated steps towards their absorption. The respondents instead of implementing the scheme as well as instruction in regard to absorption of ex-casual workers now are contemplating to fill up the available and vacant posts in the Group - D without considering the better and bonafide claims of the applicants. In that view of the matter, the applicants pray before this Hon'ble Tribunal for an appropriate interim direction restraining the respondents towards effecting further fresh appointments against the available and vacant Group - D posts without first considering the better, genuine and bonafide claims of the applicants.

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

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:-**

**5.1** For that the action of passing the impugned orders dated 18.10.04 and 16.03.05 is illegal, arbitrary and in violation of the principles natural justice, hence the same are liable to be set aside and quashed.

**5.2** For that the respondents are duty bound to fill up the ST/ SC backlog vacancies by appointing the ex-casual SC/ ST labourers against the same. Instead the

respondents are in the process of filling up the available and vacant post from the open market without first considering the cases of the applicants which is per-se illegal and not at all sustainable. Such a course of action if allowed to be taken to its logical conclusion would result in the applicants being discriminated against and their right for appointment would stand infringed.

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

**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 labours under the respondents and their names being available in the live/ supplementary register, they are entitled to the benefits of regularisation under the rules and the respondents cannot now discriminate between similarly situated persons.

5.6 For that the respondents cannot take advantage of the fact that the applicants who belong to the lowest strata of the society were prevented from approaching the appropriate forum for redressal of the grievance due to financial and locational hardships. The respondent authorities being model employers ought to have taken all requisite measures towards protection of the right and interest of the applicants without requiring the applicants to first agitate their grievance before the competent court of law. The applicants, who belong to the SC/ ST communities are also entitled to special considerations as mandated under the Constitution of India and as per the rules and regulations prescribed by the respondent authorities. The respondent authorities miserably failed to take into consideration such vital aspects of the matter and the decision impugned in this application having being taken in negation of the said facts, such decision is void ab-initio and liable to be set aside and quashed.

5.7 For that similarly situated persons having already been considered for appointments 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 relief's prayed for.

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

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

6. **DETAILS OF THE REMEDIES EXHAUSTED:**

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

7. **MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

The applicants further declare that they have not filed any application, writ petition or suit regarding the grievance in respect of which this application is made before any other court or any other bench of this Tribunal or any other authority, 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 most respectfully prayed that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be pleased to grant the following relief's to the applicants:

8.1 To set aside and quashed the impugned orders dated 18.10.04 and 16.03.05 as the same are in violation of the principles of natural justice and not sustainable in the eye of law.

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

8.3 To direct the respondent to keep 30 posts vacant till consideration for appointment of the applicants.

8.4 To direct the general manager N.F. Railway, Maligaon to issue necessary approval towards the appointment of the applicants.

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

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 respondent not to effect any further fresh appointments against the vacant Group - D posts.

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available with the respondents without at-all first considering the genuine and bonafide claim of the applicants for regularisation of their services against the posts in question.

10.

**11. PARTICULARS OF THE POSTAL ORDER:**

- i) IPO No. - 26G 318377
- ii) Issued from - 14-11-05
- iii) Payable at - Guwahati.

**12. DETAILS OF INDEX:**

An Index showing the particulars of documents is enclosed

**13. LIST OF ENCLOSURES:**

As per Index.

-V E R I F I C A T I O N -

I, Sri Ajant Bora, aged about 40 years, Son of Moniram Bora, resident of Bongaigaon, do hereby solemnly affirm and verify that the Statements made in paragraphs 1 to 3, 4 to 5, 4.7, 4.9 to 4.12, 4.16, 4.17, 4.18, 4.19 4.22 and 5 to 12 are true to my knowledge; those made in paragraphs 4.6, 4.8, 4.13, 4.14 & 4.15 are true to my information derived from records and the rest are my humble submissions before the Hon'ble Tribunal.

And I sign this Verification on this the 14th day of November, 2005.

Ajant Bora

Deponent.

.....

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 Ramchhary & 31 Others.

All are ex-casual labourers  
in the Alipurduar Division,  
N.F.Railway.

Applicants

By Advocate Mr. S.Sarma.

-versus-

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

O R D E R

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.

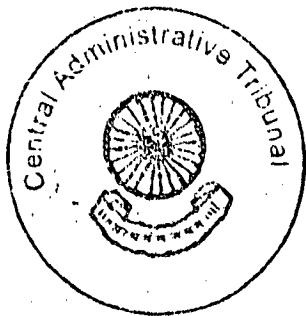
2. In this application the applicants have  
prayed for directions to the General Manager, N.F.Railway  
Maligaon, to issue necessary approval towards engagement

*certified to be true*  
copy  
Advocate

*R*  
Contd...

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 labourers of open line



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,

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.

Date of Application : 15.12.05  
Date on which copy is ready : 15.12.05  
Date on which copy is delivered : 15.12.05  
Certified to be true copy

*Tomar*  
15.12.05  
Section Officer (Jdly)  
C. A. T. Guwahati Bench  
Guwahati 781001

Sd/- Vice-Chairman

Sd/- Member (A)

*AK*  
15.12.05

MEMORANDUM : NO. 5/227/RC SV(5) 22P

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The result of screening test has been arrived by 1974-12-01

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24. Asok Ranchiary	Mr. M. Ram Bhattachary	GM/ON/MLG	11. 367	11. 85	304	ST	IX Passed.
25. Bhabit B.C.	P.C. P.C.	P.C.	30. 367	11. 85	394	ST	VIII Passed.
26. Dambuon Deka	Bhokularam Deka	P.C.	27. 3.67	8.04	275	ST	IX Passed.
27. Kandileswar B.C.	B.R. B.C.	P.C.	1.163	4.85	275	ST	IX Passed.
28. M.L. K. Yadav	J.P. Jidav	SN/ON/MLG	15. 267	10. 85	281	OB	VIII Passed.
29. Niton Ch. B.C.	Biliram B.C.	ON/MLG	2.166	5.88	269	ST	IX Passed.
30. Karuna Kanta Swargary	Kirtim Swargary	ON/MLG	3.366	10. 456	243	ST	IX Passed.
31. Sempu B.C.	U. Gangi B.C.	ON/MLG	15. 5456	10. 85	239	ST	IX Passed.
32. Rati Ch. B.C.	U. Jinesh B.C.	ON/MLG	1.167	5.84	214	ST	IX Passed.
33. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	5.55	214	ST	IX Passed.
34. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	6.25	214	ST	IX Passed.
35. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	8.75	212	ST	IX Passed.
36. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	1.85	184	ST	IX Passed.
37. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	6.55	184	ST	IX Passed.
38. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	5.54	183	ST	IX Passed.
39. Rati Ch. B.C.	U. J. R. Swargary	ON/MLG	1.167	5.64	153	ST	VII Passed.
40. Smita B.C.	U. J. R. Swargary	ON/MLG	1.167	4.54	153	ST	VII Passed.
41. K. K. B.C.	U. J. R. Swargary	ON/MLG	1.167	2.56	153	ST	IX Passed.
42. K. K. B.C.	U. J. R. Swargary	ON/MLG	1.167	3.66	153	ST	IX Passed.
43. K. K. B.C.	U. J. R. Swargary	ON/MLG	1.167	5.7	151	ST	IX Passed.
44. K. K. B.C.	U. J. R. Swargary	ON/MLG	1.167	1.65	151	ST	IX Passed.
45. Jitendra B.C.	U. J. R. Swargary	ON/MLG	1.167	3.48	141	ST	IX Passed.
46. Jitendra B.C.	U. J. R. Swargary	ON/MLG	1.167	5.8	121	ST	IX Passed.
47. P. P. B.C.	U. C. Swargary	ON/MLG	1.167	5.64	123	ST	IX Passed.
48. P. P. B.C.	U. C. Swargary	ON/MLG	1.167	5.67	123	ST	IX Passed.
49. P. P. B.C.	U. C. Swargary	ON/MLG	1.167	5.79	121	ST	IX Passed.
50. P. P. B.C.	U. C. Swargary	ON/MLG	1.167	5.85	121	ST	IX Passed.

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Annexure - 3

Copy of the Rly. Board's letter No. E(NG) 11/99/CL/18 dated 11.05.99.

Sub:- Screening of casual labourers----- live register/ supplementary live register.

Attention is invited to the instructions contained in the Boards letter No. E(NG)/ 11/98/ CL/32 dated 9.10.98 ----- of group -D vacancies in the different departments of screening casual labours borne on live/ supplementary live casual labours.

2. In accordance with the discussions held on the subject in the Board's office with the CPO (A)s of all zonal Railways on 01.04.99 appropriate action may be taken to verify the authority of the existing live/ supplementary live casual labour ----- and the updating the same as on 01.04.99 in accordance with the instructions contained in Railway Board's letter No. E (NG) II/ 78/ CL/ 2 dt. 21.02.87, 22.11.84, E (NG) II/ 78/ CL/ 2 dt. 8.12.88. The final figures of the number of vacancies on live/ supplementary live casual labour register respectively as on 01.04.99, may be informed to Board by 31.05.99.

3. Separate lists of casual labours borne on the live register/ supplementary live casual labour registers as on 01.04.99 with the following particulars may be made out, as ----- (sic)with CPO (A)s on 01.04.99:-

*Certified to be true Copy*

*Advocate*

Annexure - 4

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

O.A. No. 255/ 2003

Sri Ajant Boro & Ors.  
...Applicants

versus

Union of India & Ors.  
...Respondents.

Advocate for the Applicants: Mr. U.K. Nair  
B. Sarma

Advocate for the Respondents: Standing Counsel Railway

07.01.04 - Heard Mr. U.K. Nair, learned counsel for the applicants and also Mr. S. Sengupta, learned counsel for the respondents.

The matter is squarely covered by the decision rendered by this bench in O.A. Nos. 44/2002 and 43/ 2003 disposed of on 1st day of May, 2003. In view of the matter, the applicants are directed to submit individual representation narrating all the facts to the authority within one month from the date of receipt of the order. If such representation is filed by the applicants, the respondents are directed to consider the same in the light of the decision taken earlier and pass appropriate order within three months from the date of receipt of the representation.

The O.A. is disposed of. No order as to costs.

Member (A)

*Certified to be true Copy*

*Advocate*

N.F.RAILWAY

Office of the  
General Manager/Con  
Maligaon

Date: 16.03.2005

NO:E/63/Con/1

To

Shri

A. Ganta Bord  
S/o - Maini (Bijni)VIII - Kopti Pali  
P.O - HANCHIARA (Bijni)Bongaigaon  
Sub: OA No 255/03 of CAT/GHY

Ref: Your application dated 20.1.04

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 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 receipt.

3.3.05  
(A.K.Sinha)  
APO/Con  
For General Manager/Con

Certified to be true Copy

Advocate

Northeast Frontier Railway

REGISTERRED WITH A/D

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

Dated: 18/10/2004

No. E/63/Con/1  
To  
Shri Rabindra Boro  
S/o Chanchal Kanta Boro  
Vill. Daimari  
D. K. BARI  
DIST. Nalbari (Assam)

Sub: OA No. 255/03 CAT/Guwahati Shri Ajant Boro & others.  
VS UOI & Others.

Ref: Your application dated 20.1.2004..

In reference to your application you are hereby advised to submit documentary evidence, if any, in support of your engagement on casual basis in Construction organisation including casual labour card within 10.11.2004 failing which it will be presumed that you have no records to prove your engagement in the Construction Organisation 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.

*(A. K. Sinha)*  
18/10/04  
( A. K. Sinha )  
APO/Con  
For General Manager/Con

*Certified to be true Copy*

*Advocate*

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 Romchiary
2. Sri Ratan Boro
3. Sri Mizing Brôhmo
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

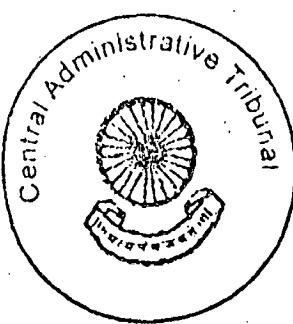
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*R.*  
Advocate

15. Sri Jogendra Pasl
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 Khergeswar Swargiary
11. Sri Pradip Kr. Boro
12. Sri Upen Narzary
13. Sri Tarun Ch. Boro
14. Sri Ramesh Ch. Ramchairy
15. Sri Monoranjan 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 Napolin Lahary
30. Sri Rajen Lahary
31. Sri Ansuman 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.

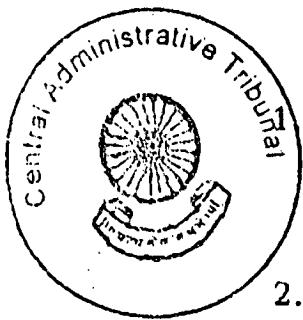
- Versus -

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.) :

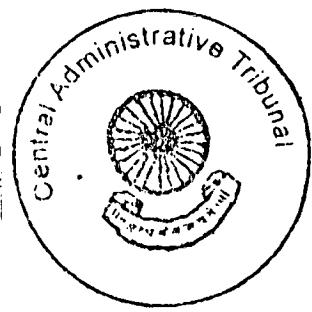
Excepting the fact that the applicants in these three O.A.s are different all of them claim the benefits of a scheme introduced by the Railways for grant of temporary status and subsequent absorption in Group 'D' posts. All these applicants had earlier approached the Tribunal by filing O.A. Nos.259, 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."

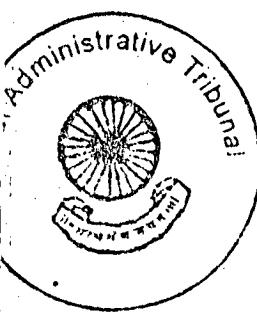
The applicants challenged the said orders in these three O.A.s.

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 thereof 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.

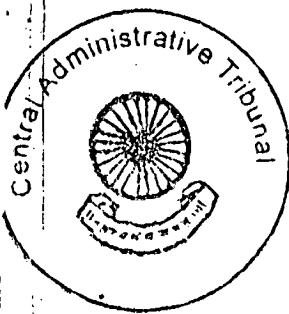
4. Dr. M. C. Sharma, Railway counsel has relied on various averments made in the written statement and submits that the applicants had never attempted to establish their claim for availing the benefits under the scheme in the 80's and if the applicants, as a matter of fact, had any genuine claim, they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



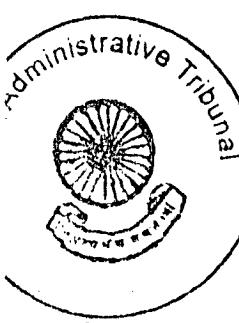
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the claim of the applicants is concerned, it is more than twenty five years gone and that if at all there is any valid claim it is lost by limitation. Dr. Sharma also points out that the respondents cannot be expected to keep all the records relating 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.

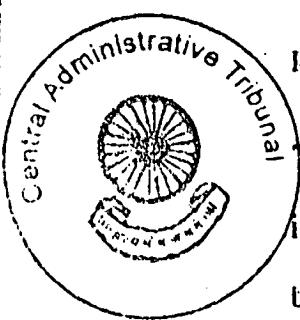
6. Now, on the question whether the xerox copies of the Casual Labour live register can be relied, respondents have taken a stand in the written statements that unless the details contained in the xerox copies are verified with the original it cannot be relied. The respondents at the same time do not 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.

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."



*SPK*

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.

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)

Date of Application : ..... 15.12.05  
Date on which copy is ready : 15.12.05  
Date on which copy is delivered : 15.12.05  
Certified to be true copy

15.12.05  
Section Officer (Judl)  
C. A. T. Guwahati Bench  
Guwahati

15.12.05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI.

O.A.No.281/05.

Sri Ajant Boro & Ors. ....Applicants.

-Vrs-

Union of India and Ors. ....Respondents.

IN THE MATTER OF:

WRITTEN STATEMENT ON BEHALF OF THE  
RESPONDENTS.

The answering Respondents,

MOST RESPECTFULLY SHEWETH :

1. That the answering Respondents beg to state that they have gone through the copy of the Application filed by the above named Applicant and understood the contents thereof. Save and except the statements which have been specifically admitted herein below or those which are borne on records all other averments/allegations made in the Application are hereby emphatically denied and the Applicants are put to the strictest proof thereof.
2. That for the sake of brevity of the case meticulous denial of each and every allegation/statement made in the Application has been avoided. However, the answering Respondents confined their replies to those points/allegations/averments of the Applicant which are found relevant for enabling a proper decision on the matter.
3. That the Respondents beg to state that for want of the valid cause of action for the Applicants the Application merits dismissal as the Application suffers from wrong representation and lack of understanding of the basic principles followed in the matter as will be clear and candid from the statements made hereunder.
4. That the averments, allegations and statements made by the Applicants are baseless and somewhere concocted, frivolous, and, therefore, are not tenable in the eye of law and hence denied.
5. That the Respondents beg to crave leave of this Hon'ble Tribunal for submission of Additional Written Statement, Re-joinder, if necessary.
6. That the Respondents beg to state that the present application has no merit at all

and it deserves to be dismissed with cost to the Respondents.

7. That it is submitted that the Applicants have not submitted their genuine Casual Labour Cards as the signatures of the Rly. Officials endorsed therein are of forged and fraudulent as are evident prima-facie from verification of the official records and also by obtaining the Forensic Expert's opinion. Casual Labour Service Card is the Cardinal Documentary evidence in support of any claim that a person was engaged by the Railway Administration as Casual Labourer at any point of time in exigency of the Railway work. It is pertinent to mention that the Applicants did not submit any proof of their alleged engagement in the Railway in their earlier O.A. No. 255/03. Submission of Casual Labour Card with O.A. No. 281/05 is an after-thought and proved false, fabricated, fake and fraudulent and can not be accepted in the eye of Law and, hence, denied.

A sample photocopy of the Casual Labour Card produced by the Applicants and the opinion of the Forensic Expert on this aspect are submitted herewith as ANNEXURE-I & II.

8. That it is submitted that in regard to substantiate their claims the Applicants should have submitted the original Casual Labour Card for the genuine proof of their engagement by the Railway and also to ascertain the period they had worked for the Railway ; but none of them have submitted any genuine Casual Labour Card nor any original record of whatsoever nature in support of their claim for their engagement by the Railway for working as mentioned in their application filed before this Hon'ble Tribunal.

9. That it is submitted that before sending the Casual Labour Cards for Expert's opinion the Respondents suo moto took necessary steps in the matter by exercising their responsibilities officially to verify the official records so far available so as to ascertain the genuineness of the documents produced by the Applicants in support of their claim for their re-engagement in the Railway Administration as claimed for in their above original Application. But on verification of records it was found that signatures on the Casual Labour Cards produced by the Applicants do not corroborate with the signatures of Officers/officials in the records kept and available in the office. Thus a doubt was raised regarding the genuineness of the claim and the documents produced by the Applicants appeared to be fake, fabricated and false. The Forensic Expert's opinion mentioned above confirmed the doubts of the Respondents.

10. That this is a second round of litigation by the Applicants on the same subject and issue before this Hon'ble Tribunal filed one after another by taking this plea or that to waste the valuable time of this Hon'ble Tribunal as well as all concerned without having any genuine cause of action and proof of substantiating their claim in the event of their re-engagement in the Railway on the strength of their alleged earlier services rendered

न. मुख्य (अधिकारी/सचिव)  
Dy. Chief Engineer/Con/Ex  
प. सी. रेलवे, मार्गदर्शिका  
N. R. Railways, Aligaura  
गुवाहाटी-781 011  
Guwahati-781 011

to the Railway Administration as Casual Labours mentioned in their applications.

11. That in this connection it is humbly submitted that so far the preservation of records pertaining to engagement of Casual Labours are concerned, the normal preservation period in terms of extent instructions as per Ministry of Personnel, Public Grievance, New Delhi is only 3 years or one year after the completion of Audit report whichever is later. In the instant case the claim of the Applicants pertains to the year 1984 or so is more than 20 years, whereas the Applicants during the relevant period when the Administration took steps to recognize such cases in the special drive for making no **Casual labour in the Railway by the end 1997 as per Railway Board's instruction, have failed to approach the administration to decide their claims on merit.**

Photo copy of the above circular issued by the Ministry of Personnel regarding preservation of record is annexed as ANNEXURE-III.

12. That on being influenced by the Applicants in O.A Nos.336,337,338/04 the Applicants in this Original Application are approaching this Hon'ble Tribunal repeatedly for agitating the matter without having the sufficient reasons and grounds to substantiate their claim on producing and proving the genuineness of their records.

13. That it is humbly submitted that the above Original Application Nos 336,337,338/2004 have been finalized and the Contempt Petitions also bearing Nos. 34, 36, 37,38 of 2006 arising out of those O.A.s were also decided and the matter closed finally giving justice in favour of the Respondents vide orders of their Lordships dated 10.3.2006 and 17.3.2006.

Photo copies of above orders are enclosed as ANNEXURES-IV, V.

14. That it is, therefore, humbly submitted that this Hon'ble Tribunal may be kind enough to adjudicate the matter on the same footing of those decided cases which were finally dropped and closed <sup>in</sup> the Contempt petitions No.34, 36, 37,38 of 2006 decided by their Lordships in this Hon'ble Tribunal as mentioned under para-13 above..

15. That it is respectfully submitted that the Application in O.A.281/2005 is also barred by limitation as per Section 21 of the Administrative Tribunal Act, 1985 and hence, is liable to be dismissed with cost to the Respondents.

16. That it is humbly submitted that the Applicant in the instant O.A. have come directly to this Hon'ble CAT without representing at any point of time to the Respondents in regard to settle of their claim/grievances, and thereby violated the mandatory provision of the Administrative Tribunal Act, 1985, and thus the subject O.A is liable to be rejected in limine and with costs.

17. That it is reiterated that since the contention/submission of the applicant are not genuine and not identically verifying with the records of the Respondents Railway Administration, their claim is not tenable in the eye of law and hence, summarily be rejected ab initio and in limine.

18. That in accordance with the Railway Board's Master Circular No.E(NG)II/9/CL-Master Circular/157 dated 30.6.92, a Live Casual Labour Card and his representation made to the Railway Administration for his reengagement/reinduction of whatsoever in Group-D employment as and when required by the Railway Administration towards reengagement/absorption after making necessary verification of records and observing other formalities etc. are of imperative and "a must" But the Applicant have failed to produce the original casual labour service card relating to their engagement in the Railway Administration as essential requirement and it was therefore, not possible on the part of the Railway Administration/the Respondents to consider their cases.

19. That it is further submitted that in accordance with the Railway Boards' Circular communicated to all Zonal Railways vide No.E(NG)II/96/CL/61 dated 3.9.96 an action plan was drawn to ensure the absorption of all Casual labour of Railway whose names were kept in the Live Casual Labour Register and Supplementary Live Casual Labour Register and the entire process of which were to be completed by the December, 1997, so that a position of "**No casual labour is achieved**". To ensure the said action plan, a ~~mass~~ drive was launched by the Respondent Railway Administration to ensure whether any casual labour was borne on Live Casual Labour Register/Supplementary Live Casual Labour Register, who was earlier at any time was engaged by Railway and consider their cases on merits. But as per available records with the Respondents the Applicants in the instant O.A did not make any representation at that time to any of the competent Railway authority in regard to entertainment and examine their claims.

20. That the answering Respondents in reply to the statements made by the applicant under paras 4.1, 4.2, 4.3, 4.4 and 4.5 ~~do~~ submit that these are all matters of records and

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Dy. Chief Engineer/Con/G  
पूर्ण सेवा विभाग  
Railways  
गुवाहाटी-781 011  
Guwahati-781 011

*kept with the Applicants*

unless the genuineness of the records are evidently proved to decide veracity of their contention/statements they are totally denied. The Applicants must produce the relevant documents in support of their claim in relation to their working as casual labour in the Railway as mentioned in those paragraphs. The onus in such cases, it is humbly submitted, lies with the Applicants who bring such false and fabricated allegation against the Respondents to camouflage the Court of law and to obtain an undue advantage of their unsustainable claim. Merely by bringing a false and fabricated allegation against the Respondents will not serve any purpose and bring the coveted fruits to the Applicants unless they can substantiate their claim with the genuineness of documents, specially the Casual Labour Live Card, which is a cardinal weapon to be undergone the decision by both the parties in the eye of law as per prevailing system, procedure and Law of the land.

21. That in regard to statement made in para-4.6 the Respondents beg to submit that the matter of the OA. 79/96 as referred by the Applicant has already been decided and had got no relevancy and sufficiency with the present claim of the Applicant unless they can produce the genuine certificate/ document of their engagement by the Railway for working in the Railway as Casual labours. Hence, the contention made in this para is not at all admitted.

22. That in regard to the statements made under paras-4.7 , 4.8 and 4.9 by the Applicant, the answering Respondents submit that tagging the matter and, cases of the Applicants in O.A.No.79/96 was not acceptable in the case of the Applicants' cases as they could not produce any single instance of genuineness of their identity that they had worked in the Railway as Casual Labourers at any point of time. Merely by citation on the other's privileges decided on right footing does not bring any result for the persons who are on the wrong track. The allegations of the Applicants in these paragraphs are totally denied.

23. That with regard to the statement made in Para-4.10 by the Applicants the answering Respondents submit that the cases of Ex-Casual labourers would be considered according to Railway Board's direction only when those labourers were to be found borne in Live/Supplementary Casual Labourer Register within the stipulated time framed. The Applicants could not establish by any means that their names were borne in the Live Casual Labour Register or in the Supplementary Live Casual Labour Register

(P)

Dr. Chief Engineer/Con/G  
संस्था रेलवे एवं नदीपार्क  
रेलवे, नदीपार्क  
गवाहाटी-781 011  
Guwahati-781 011

or they approached at any point of time to any of the authorities of the Respondents for inclusion/induction of their names in the Live Casual Labour or Supplementary Live Casual register by showing genuine proof of evidences. Thus the statements of the Applicants is not tenable at all and, hence, the Respondents can not take any importance to it for considering their cases as per prevailing Railway system and Rules.

24. That in regard to the statements made in paragraph-4.11 it is submitted that it is the repetition of their earlier submission and does not bear any concrete evidence or genuineness to examine their cases on the right footing. The statement made by them regarding their working in the Railway is totally false and is only to create a citation of sympathy and/or an atmosphere to take undue advantage. The Respondents beg to submit that the Casual Labour Identity Card produced by the applicant was got verified through the highly sophisticated machinery of the Government, who is not a party in the instant O.A i.e. the Forensic Science Laboratory/Guwahati and it was proved that the signature of the Officer issued the Casual Labour Identity Card to the applicants was not authentic, rather, forged one. Thus the content made by the Applicants is not true to establish their claim and, hence, it is denied by the Respondents at its very inception.

25. That with regard to the statement made under para-4.12 in the Written Statement by the Applicants it is submitted that the contents in this Application are not admitted as the Applicants have failed to adduce any <sup>genuine</sup> documentary evidence in support of their statements in the said paragraph. The reference of advertisement the Applicants have cited in the said para but could not produce or mention the relevant number and dates and the category of position advertised to consider their claim.

26. That in regard to the statement made under para-4.13 the Respondents submit that in another Application bearing O.A No.255/03 the Hon'ble CAT, Guwahati made order to make personal communication to each of the Applicants and accordingly the Applicants were informed that their claim of being Ex-Casual Labour got verified and found that the genuineness of their Casual Labour Card was not established; and hence, their claim for re-engagement in the Railway service was rejected. Hence, the question of the reference of a case which was already decided, settled and closed once for all could not come for making a further reference in submitting a fresh Application on the same subject and issue. This comes within the purview of Res Judicata ; and hence, the instant Application filed by the above named Applicants may be stopped to advance any further.

অসম অধিনায়কতা  
D.Y. Chief (F.I.C.E./Conc.)  
পু. সী. ফো. পালিগাঁও  
পালিগাঁও, পালিগাঁও<sup>৪</sup>  
অসম-৭৩১ ০১  
Guwahati-781 011

27. That with regard to the statement made under 4.14 of the Written Statement of the Applicants the Respondents offer no comments as ~~it reveals~~ verifying the documents that necessary action the Respondents had already taken in the matter and does not require any further action or steps to be taken.

28. That with regard to statements made under paras-4.15,4.16,4.17,4.18, the Respondents traversing the allegations made in these paragraphs and submit that the Applicants in the O.A Nos. 336, 337, 338 of 2004 filed Contempt Petitions under No.C.P.36/05, 37/05 and 38/05 were all dropped and disposed of by their Lordships in this Hon'ble Tribunal vide their common judgment and order dated 10.3.06 and 13.3.06 as the Respondents proved by furnishing the expert opinion of the Forensic Department that the genuineness of the documents produced by the Applicants in these O.As were fabricated, false and forged. Thus, giving reference of those O.As will cherish no fruit for the purpose of the Applicants in the instant O.A; which is also rather liable to be summarily rejected on the same footing of those decided Contempt Petitions.

29. That with regard to the statements made under paragraphs 4.19, 4.20, & 4.21 it is stated that to get appointment in any advertised post requires the skill, efficiency and caliber of each individual Applicant. By mere citation of the others enjoying the benefits of employment does not entail any rightful purpose of the other who has not availed of that opportunities or has not proved his caliber and quality to surmount the hurdles of selection/appointment/engagement procedures to reach his coveted goal. The Applicants have got every right to prove their qualities and caliber in the fresh selection/appointment/engagement when asked for after proving and exhibiting their all genuine credentials and abilities in the desired job. So the question of granting any interim direction by this Hon'ble Tribunal does not arise at all and the Respondents most humbly pray before this Hon'ble Tribunal to look into the matter and be pleased to pass appropriate orders. The Respondents respectfully submit that the allegations and the submission of their Application <sup>are</sup> not tenable and hence, liable to be rejected in limine and with costs to the Respondents.

30. That with regard to the contents of the paragraph under 4.22 of the Written Statement, the Respondents respectfully submit that for the reasons stated in the

Dr. Chief Examiner/Con/78  
D. S. O. 78  
N. I. Railways, Dibrugarh  
पश्चिम असम  
Guwahati-781 011

foregoing paragraphs and for not establishing any *prima facie* case to be considered for redressal of the grievances of the Applicant. in the instant O.A. is liable to be rejected.

31. That with regard to the contents under different paragraphs of Para 5 the answering Respondents most humbly submit that these are the repetitions of the Applicants in their contention narrated under different paragraphs of Para-4 with the heading "**facts of the case**" and therefore the grounds for making a *prima facie* case for admitting this Original Application in this Hon'ble Tribunal are not sustainable and, hence, liable to be rejected ab initio.

32. <sup>lue</sup> That the law settled under sun that "**he who comes to seek equity and justice, must come with clean hands**". The Applicants at no point of time and even after making their big Application in this Hon'ble Tribunal could not file a single instance of the genuineness of their claim in regard to their engagement as Casual Labour by the Respondents Railway Administration at any point of time. The Applicants have simply submitted the judgment of this Hon'ble Tribunal in regard to O.A 79/1996, which was altogether a different matter. Moreover, the said O.A. was filed in 1996 when the Respondents Railway Administration have given enough scope to all Ex-Casual Labours to come and get their names registered with the Respondents Railway Administration by proving their original Ex-Casual Labour Card so as to enable the Respondents Railway Administration to complete their launch of massive drive to make "**no casual labour**" by the end of 1997. Had the Applicants in the instant O.A. were actually engaged by the Respondents Railway Administration at any point of time they could have volunteered themselves in the event of their being re-engaged by the Railway during the material time by showing their genuine Casual Labour engagement cards which are the basic and primary identity of each and every Ex-Casual Labour as per the Railways' own system and existing Rules.

33. That it is submitted that an eligible photo copy which the Applicants annexed as ANNEXURE-2 in support of their claim for adducing the result of their screening test as on 21.4.2000 does not give facility of their contention as none of the Applicants named in the said memorandum appears to be taken into consideration after verification of records. That in this connection the Respondents further state that in accordance with Railway Board's Circular No. E(NG)/II/78/CL/2 dated 4.3.87 and 21.10.87 an action plan was formulated by the Respondents for absorption of all Casual Labours on role and/or whose names were in the "**Live Casual Labour Register/Supplementary Casual Labour Register**"

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नवीन अधिकारी/मिस्टर/सॉन्टर  
Dr. Chief Examiner/Conc.  
पू. सी. रेड्डी  
N.T. Railway, Guwahati  
गुवाहाटी-781 011  
Guwahati-781 011

so that a process can be completed by December, 1997 that "no Casual Labour on role". It is pertinent to mention here that during that massive drive when quite a number of Applications were received from the discharged Casual Labours and their cases were disposed of on merits, there was not a single representation/application from the Applicants in the instant O.A. to be taken into consideration for verification of the records of the Respondents and it is submitted that no Representation/Application from any of the Applicants for absorption/regularization of Casual Labour of the Respondent Railway Administration was made at any point of time before coming to this Hon'ble Tribunal for two times.

34. That it is submitted that the Respondents Railway Administration had given a reasoned reply with speaking order to each of the order of the Hon'ble CAT and/or Applications represented by the Applicants and as such, the allegations brought by the Applicants in the instant O.A. are futile and frivolous and do not deserve any consideration.

35. That the subject Application is barred by limitation as per Section 21 of the Administrative Tribunal Act, 1985, and, hence, is liable to be dismissed with cost to the Respondents.

36. That the answering Respondents respectfully submit that this Application shall suffer from Res Judicata, Acquiescence and Waiver and other like infirmities and, hence, is liable to be dismissed.

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VERIFICATION

I, Sri T. Daimari S/o Late P.C. Daimari aged about 50

Years working in the Official Capacity  
as... Dy. Chief Engineer/Con/G./N.F.Rly, Maligaon  
affirm and verify that the statements made in paragraphs-7 to 28 are all derived from  
records and to the best of my knowledge and information and belief to be true and the  
paragraphs 1 to 6 and 29 to 36 are my respectful submission.

And I sign this Verification on this 31.5.2006.

(T. Daimari)

For and on behalf of the  
Union of India and other Respondents.

Dy. Chief Engineer/Con/G.

पु. सी. रेलवे भालीगाँव

N.F.Rly, Maligaon

গুৱাহাটী-781 011

Guwahati-781 011

To

The Dy. Register,  
Central Administrative Tribunal,  
Guwahati.



# ANNEXURE-11

OFFICE OF THE DIRECTOR, FORENSIC SCIENCE LABORATORY  
ASSAM: GUWAHATI-781019.

By Special Messenger  
By Registered A.D.

FORENSIC  
Gram  
GUWAHATI  
Tel No. 2381305, 2381696, 2381385.  
Fax No. (0361 - 2381305).  
E-mail : fsl.assam @ sify. com.

No. FSL. 1208/Q/ 237/

Dated Guwahati, the 27/2/2006.

From :- The Director-Cum-Chemical Examiner to the Government of Assam,  
Forensic Science Laboratory, Assam, Kahilipara, Guwahati-19.

To :- The Dy. Chief Personnel Officer/Com.,  
N. F. Railway, Maligaon,  
Guwahati - 781011.

Please find herewith the enclosed Opinion No. FSL/QDS-18/06, dated 23.02.06, in connection  
with a departmental enquiry, P. S. Case No. Nil U/S - Nil, received vide your memo No. E/63/CON/II/06,  
dated 08.02.06, through messenger. Please acknowledge receipt.

The documents are returned herewith.

For all future correspondences or summons the Opinion number may please be quoted and  
Dr. (MS) TILAKA DAS, M.Sc., Ph.D., Scientific Officer, Questioned Documents Division, Forensic Science  
Laboratory, Assam, Kahilipara, Guwahati-19, may be summoned for evidence, if necessary.

Enclos:-

- (1) Opinion No. FSL/QDS-18/06,  
dt. 23.02.06.
- (2) Documents stamped and marked Q1 to Q50  
in 20 vols and S1 to S7 and A1 to A18 in 13 sheets  
and one vol.

Director-Cum-Chemical Examiner to the  
Government of Assam, Forensic Science  
Laboratory, Assam, Kahilipara, Guwahati-19.

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GOVERNMENT OF ASSAM  
OFFICE OF THE DIRECTOR ; FORENSIC SCIENCE LABORATORY, ASSAM,  
KAHILIPARA, GUWAHATI.

To,

The Dy. Chief Personnel Officer/Con.,  
N. F. Railway, Maligaon,  
Guwahati - 781011.

OPINION

NO. FSL/QDS/- 18/06

Dated 23/02/06

The documents in connection with a departmental enquiry received vide Memo No. E/63/CON/1/Loose dtd. 8.2.06, have been carefully and thoroughly examined.

2. The person who wrote the blue enclosed signatures stamped and marked S1 to S3 and A1 to AS did not write the red enclosed signatures similarly stamped and marked Q1 to Q15.

3. The person who wrote the blue enclosed signatures stamped and marked A4 to A13 did not write the red enclosed signatures similarly stamped and marked Q16 to Q25.

4. The person who wrote the blue enclosed signatures stamped and marked S4 S7 and A14 did not write the red enclosed signatures similarly stamped and marked Q26 to Q35.

5. The person who wrote the blue enclosed signatures stamped and marked A15 to A18 did not write the red enclosed signatures similarly stamped and marked Q36 to Q50.

*Tilakadas*  
Dr. (MS) TILAKA DAS, M.Sc., Ph.D.,  
Scientific Officer,  
Questioned Documents Division,  
Forensic Science Laboratory, Assam,  
Kahilipara, Guwahati-19.

A.R.

\*\*\*

ANNEXURE - III

W  
NF Railway

No.E/191/26 Pt.VII (C)

Office of the  
General Manager(P)  
Maligaon, Guwahati-11  
Dated. /7.05.2000

To,  
GM(Con), All PHOD & HODs/Maligaon,  
All DRM, DAOs & WAOs,  
Dy.CME/NBQ & DBWS,  
All Controlling officers of divisionalised officers,  
All Cadre Section's SPO & APO.

Sub:- Preservation and Destruction of old Records.

An extract of chapter 'A' on Establishment matter from the " Record Retention Schedule for Records " - issued by the Ministry of Personnel Public Grievances, New Delhi, is forwarded herewith for information and guidance please.

DA : As above

for General Manager (P)  
10/5/2000  
Guru

**A-ESTABLISHMENT**

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## A-ESTABLISHMENT—contd.

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33. Condonation of break in service 3 years

Subject to a suitable entry being made in the appropriate service record and an authenticated copy of the order being kept in Vol. II of service book/personal file.

35. Engagement of casual labour

3 years or 1 year after completion of audit, whichever is later.

Castes and Tribes

11. Representation in posts and services—policy and implementation of safeguards

Permanent in the case of departments issuing the orders, instructions, etc.; other departments need maintain only the standing orders and instructions, weeding out the superseded ones as and when they become obsolete.

12. Reservation of vacancies (including grouping of posts, and exclusion of posts from reservation order)

5 years

The Department of Personnel and Training and the Commissioner for Scheduled Castes and Scheduled Tribes, as authorities responsible for overall policy and coordination in the matter, may keep such record for appropriate longer periods to be prescribed by them in their respective record retention schedules.

13. De-reservation of vacancies

15. Complaints from associations regarding non-observance of reservation in services 3 years

16. Annual statement regarding representation of Scheduled Castes/Scheduled Tribes 1 year

11. General principles

Permanent in the case of departments issuing the orders, instructions, etc.; other departments need keep only the standing orders and instructions, weeding out the superseded ones as and when they become obsolete.

## ANNEXURE-IV

(S) by (P) C  
GM (Cor) informed

### CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Contempt Petition Nos.36/05, 37/05 & 38/05  
In Original Application Nos.336/04, 337/04 & 338/04.

Date of Order: This the 10th day of March 2006.

**THE HON'BLE SHRI B.N.SOM, VICE CHAIRMAN (A)**

**THE HON'BLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN (J)**

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.E.Railway.

..... Applicants in C.P. No.36/2005.

1. Shri Suren Ramchiary
2. Sri Ratan Boro
3. Sri Mizing Brahma
4. Sri Rajit Brahma
5. Sri Jaidev Swargiary
6. Sri Naren Ch. Bastimatary
7. Sri Raj Kuntar 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

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14. Sri Biren Baishya
15. Sri Jogendra Pasi
16. Sri Ranjit Das
17. Sri Naren Ch. Boro

All ex-casual labourers in the Alipurduar  
Division, N.F.Railway.

..... Applicants in C.P. No.37/2005

1. Sri Dhaneswar Rahang
2. Sri Lehit Ch. Boro
3. Sri Rati Kanta Boro
4. Sri Monorangen Dwainary
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 Monoranjan 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 Ansumita Swargiary
32. Sri Suren Daimary
33. Sri Raju Borah
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 C.P. No.38/2005.

- Versus -

1. Shri A.K. Jain,  
General Manager (Construction)  
N.F. Railway, Maligaon,  
Guwahati, Assam.
2. Shri Arjun Rakshit,  
Divisional Railway Manager,  
Alipurduar Division, N.F.Railway.  
Alipurduar, West Bengal.

.....Contemnors/ Respondents  
in all the petitions.

#### ORDER

##### B.N.SOM VICE CHAIRMAN (A)

All these three contempt petitions involve similar facts and arising out of the order dated 19.7.2005 passed by this Tribunal in O.A.336, 337 and 338 of 2004. We have disposed of all the Contempt Petitions by this common order.

2. For the purpose of adjudicating the matter we have examined C.P.36/2005 in detail.
3. The petitioner by filing the instant Contempt Petitions has brought to our notice the fact that the respondents/contemnors had acted in a

contemptuous manner in implementation of our order dated 19.7.2005 passed in O.A.337 of 2004. It is also the allegation that the respondents had acted willfully and their inactivity deserves appropriate action under the Contempt of Courts Act 1971.

4. The respondents have filed a detailed show cause reply dated 7.3.06 after receipt of our notice. It is their submission that they have taken all necessary steps to search the documents of the applicants in the O.A as directed by the Tribunal in consideration of their cases on merits. They have also disclosed that they have scrutinized the documents/xerox copies of the Casual Labour Register forwarded under XEN/Con/Bongaigaon letter No.E/BNGN/Con/CL/502 dated 5.1.1989 and the CL cards submitted by the applicants. The respondent after examining the records had passed a speaking order dated 10.2.2006 (Annexure-A) and the same was duly communicated to the applicant by his letter No.E/63/CON/1/Loose. He has further disclosed that he has found the applicant's case being not on merit and that the documents relied on by the petitioner to be fabricated, vague and false. He has, therefore, submitted that as the scrutiny of the records belied the claims of the applicant that the Contempt Petition is liable to be dismissed with cost.

5. The learned counsel for the petitioner has vehemently opposed the submission made in the reply stating that the respondents have not only not implemented the order of the Tribunal dated 19.7.2005, they have also acted arbitrarily and have not shown respect to the order dated 19.7.2005.

6. We have perused the order passed by the alleged contemner which is at Annexure-A. The direction issued to the respondents in O.A.336/2004 dated 19.7.2005 was as follows :

"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 (Annexure-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."

From above it is clear that the respondents were directed to consider the case of the applicant based on their own records i.e. the xerox copies of the casual labour live register, the documents based on which the earlier written statements were filed and to take a decision in the case of the applicants afresh. From Annexure-A we find that the respondent No.1 had examined the case of Shri Ranjit Brahma alongwith other applicants to see whether they were included as casual labour with the Railways during the relevant period of time i.e. 5.1.85 to 31.8.85. It is the submission of the respondent that there is no evidence on record to show that the applicants were so engaged during the said period. It is further submitted that the same information was also communicated to Shri Ranjit Brahma by the General Manager/Con. the APO/CON by letter dated 18.3.04. He has further submitted that while scrutinizing the relevant records as directed by the Tribunal it came to the notice that whereas the identity card issued to Shri Ranjit Brahma shown to be issued by one S.S. Ghosh, the then AEN/CON/Bongaigaon, it is found on verification of records that during that period S.S.Ghosh was not AEN/CON but he was XEN/CON and that the signature of S.S.Ghosh as

available on record does not tally with the signatures on casual labour cards or the xerox copy of the live casual register purported to be signed by S.S.Ghosh. In the circumstances, a doubt had arisen in their mind whether forwarding of a photo copy of the live casual register on 5.1.89 was done by resorting some undesirable means. The alleged contemner therefore had sent the relevant records for opinion of the Forensic Expert, Guwahati and obtained his opinion which is enclosed as Annexure-B. In the said Annexure-B, the Scientific Officer, Questioned Documents Division, Forensic Science Laboratory, Assam, Guwahati has opined that the person whose signatures appeared on the documents in the official record do not bear resemblance to the signatures appearing on the xerox copy of the live casual labour register or on the casual labour card. He, the alleged contemner therefore, concluded that the signatures on the records relied on by the applicant being fictitious the records are also of doubtful nature. He has further submitted that there were no credible documents placed before him by the applicants to consider his claim nor the records maintained by the respondents bear any testimony to accept the claims made by the applicant.

7. The learned counsel for the applicant has drawn our notice to the decision in the case of Union of India and Ors. vs. Subedar Devassy PV (2006) 1 SCC 613) Civil Appeal No.1066 of 2000 decided on 10.1.2006 by the Apex Court where it is held that "in contempt proceedings court is concerned only with question whether the earlier decision has been complied with or not. It cannot examine correctness of decision, or traverse beyond it and take a different view from what was taken therein, or give additional directions or delete any direction." However, we do not feel that in the instant case before us there has been any case to consider if any attempt has been made to overreach the scope of the

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court in this contempt proceeding and therefore not much benefit can be derived by the petitioner in this regard.

Having regard to the facts of the case as has been brought out in the speaking order passed by the respondent/alleged contemner we find that they have substantially complied with the directions issued in this regard by the Tribunal and therefore nothing survives in the contempt petition for further adjudication. In this view of the matter the Contempt Petition is dropped. No costs. Notices may be discharged.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

ORDER SHEET

Original Application No. \_\_\_\_\_

Misc. Petition No. 34/05 (O.A. 339/04)

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) K.K. Biswas & Ors.

Respondent(s) U.O. I. 2 Ors.

Advocate for the Applicants Miss Usha Das.

Advocate for the Respondent(s) Mr. K.K. Biswas & Ors.  
Riy St. Counsel

09.03.2006. Present: Hon'ble Sri B.N. Som,  
Vice-Chairman (A)

Hon'ble Sri K.V. Sachidanandan,  
Vice-Chairman (J)

Heard Ms. U. Das, learned counsel for  
the petitioners and Mr. K.K. Biswas, learned  
railway counsel for the respondents.

The Contempt Petition has been filed  
by the petitioners for non-compliance of the  
order dated 23.12.2004 passed by this  
Tribunal in O.A. No. 339/2004, wherein this  
Tribunal directed the petitioners to make  
representations to the respondents narrating  
all the grievances and if such representation  
is submitted by the petitioners, the  
respondents were directed to pass a reasoned  
and speaking order within six months from  
the date of receipt of the representation.

The respondents have filed a part  
compliance report No. E/63/CON/1(OA  
339/04) dated 20.01.2006, wherein it is  
stated that the representation submitted by  
the applicants has been considered, but re-  
engagement could not be considered for want  
of documents. Since, substantial compliance  
report has been filed by the respondents, we  
are of the considered view that the Contempt  
Petition does not survive. Hence, the  
Contempt Petition is dismissed. It is made  
clear that if the petitioners have any further  
grievance, they are not restricted to approach  
the appropriate forum.

Date of Application: 1.3.06

Date on which copy is ready: 1.6.06

Date on which copy is delivered: 1.6.06

Certified to be true copy

Section Officer (Jndl)

C. A. T. Guwahati Bench

Guwahati-5

The Contempt Petition is dismissed  
accordingly. Notice issued, if any, is  
discharged.

Sd/ VICE CHAIRMAN (J)

Sd/ Vice Chairman (A)

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**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT  
GUWAHATI**

**Original Application No. 281 / 2005**

Sri Ajant Boro & Ors.

Versus

Union of India & Ors.

**IN THE MATTER OF :**

An additional affidavit on behalf of the applicants to bring on record documents proving their engagement on casual basis under the respondent authorities.

**ADDITIONAL AFFIDAVIT:**

I, Sri Rabindra Boro, aged about 45 years, son of Chandra Kanta Boro, resident of Batiamari, Tamulpur, in the District of Nalbari do hereby solemnly affirm and state as follows:

*R. Boro*

1. That I am one of the applicant No. 4 in the aforementioned Original Application being O.A. No. 281/ 2005 and conversant with the facts and circumstances of the case. As such, I am competent to swear this affidavit on behalf of the other co-applicants in the instant application.
2. That the applicants herein above have filed the instant application against the impugned orders rejecting their claim for regularisation of their

services under the scheme formulated by the respondent authorities for regularisation of the services of such casual/ ex-casual labourers.

3. That the respondent authorities have filed their written statement in the above noted Original Application being O.A. No. 281/ 05 and their sole contention is that the applicants have failed to produce any documentary evidence in support of their engagement in the Railways on casual basis and as such their claim should be rejected.

4. That the applicants have recently got hold of certain documents, which proves their engagement on casual basis under the respondent authorities and this additional affidavit, has been filed to bring on record the said aspect of the matter. The said document is a list containing names of casual/ex-casual labourers whose names were forwarded by the concerned authorities in the railway administration for taking necessary steps towards regularisation of their services under the scheme formulated by the Railway Administration for regularisation of such category of workers. It is pertinent to mention here that the names of all the applicants in the instant application figured in the said list of casual/ ex-casual labourers.

A copy of the said list is annexed as Annexure – A.

5. That the applicants state that the presence of the names of the applicants in the said list unequivocally establishes that they were engaged by the Railway Administration and in view of the said position a right has accrued to the applicants for absorption in service. The sole contention raised by the respondent authorities in the written statement in the above referred case that the applicants failed to produce any documents justifying their claim that they were engaged on casual basis under them also stands answered by the aforesaid documents. Accordingly, the above noted application is required to be allowed granting to the applicants the relief/ relief's prayed therein.

6. That this additional affidavit has been filed bonafide for securing the ends of justice.

R. Bora

7. That the statements made herein above in paragraphs, 1 to 6 are true to the best of my knowledge and belief and the rest are my Hon'ble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this 4<sup>th</sup> day of September at Guwahati, 2006.

Identified by:

*Amar Chetry*

*Sri Rabindra Boro*

DEPONENT

Advocate.

N.F. Railway

Office of the  
Dy. Chief Engineer/Con  
BB Project, Jogighopa.

No. E/255/Con/JFZ/

Dated : 17th July '95.

To

GM/CON/MLG

N.F. Railway.

Sub:- Ex-Casual Labour.

Ref:- Your letter No. E/255/CON/Seniority/  
CL/Pt. VI Dated 13-3-95.

In reference to the above the list of ex-casual labour  
(ST) is sent herewith for your further disposal please.

For Dy. Chief Engineer/Const  
N.F. Rly/Jogighopa.

18. F. Ry.

At 31. 12. 86.

1/10/Recd 11

To

XEIS/Coss/Compl. No.

Through A EIS/Coss/Progr.

Sub:- List of Casual Labours

Enclosed herewith one list

of Casual labours containing 80 (Eighty)

no's only of 63 regd Sub-Division is

Enclosed herewith for your necessary

Checking and Record Please.

Ann. 3 (Three) Sheets.

Rehab. Dept.  
V. P. M. I.C. / B. N.

18. *Carneoryctes* *carneorum* *carneorum* *carneorum*

List of Casual labour working under Gangaram Sule  
Adressor

Sl. No.	Customer Name	Address	Quantity	Rate	Total Amount	Challan No.	Date
1.	Shri Bipin Ch. Borkar S/o Late Ram Borkar	17. 3. 60	16. 50	19. 10. 79	153	Left Service	
2.	Shyajendra Nath Borkar S/o D. R. Borkar	2. 1. 60	18. 00	13. 0. 79	232	Shifted to private/ANY	
3.	" Rajkumar Mandal S/o Radhe Krishan Mandal	28. 3. 61	15. 2. 24	21. 6. 80	226	Left Service	
4.	" Balu Dairman S/o Bhulabai Dairman	15. 2. 65	1. 4. 83	31. 1. 81	144	Left Service	
5.	Pratul Chavhantry S/o P. Chavhantry	3. 6. 66	21. 5. 26	21. 6. 80	226	Shifted to private/ANY	
6.	" Bhubanwar Boro S/o Ganesh Boro	17. 3. 63	21. 5. 26	21. 6. 80	626	Left	
7.	" Mani Ram Singiary S/o J. Singiary	21. 1. 60	22. 5. 16	21. 6. 80	696	Left	
8.	" Sankar Ramchary S/o Late Sali Ramchary	22. 1. 66	22. 5. 22	21. 6. 80	621	Shifted to private/ANY	
9.	" Kamalchand Borkar S/o B. P. Borkar	16. 1. 68	16. 6. 24	21. 6. 80	278	Left Service	
10.	" Jagun Dange S/o Late Ichharam Boro	22. 11. 65	16. 4. 21	21. 6. 80	518	Shifted to private/ANY	
11.	" D. G. Bhattacharya S/o Bhulabai Ram Boro	22. 1. 66	16. 4. 21	21. 6. 80	275	Left Service	
12.	" Radu Ram Boro S/o Late Jagun Boro	21. 1. 66	16. 4. 21	21. 6. 80	273		
13.	" Gopal Chandra Boro S/o Radha Boro	13. 2. 63	16. 4. 21	21. 6. 80	272		
14.	" Laxmi Ram Boro S/o Late Sonu Boro	21. 1. 66	16. 4. 21	21. 6. 80	271		

15	sri Iponukh Daimerry S/o D. Ravindra	20.11.85	1. 5. 84	31.12.84	245
16	Balkish Daimerry S/o Mohan Ram Daimerry	20.11.85	1. 5. 84	31.12.84	123
17	" Rajindra Daimerry S/o Dande Daimerry	1. 1. 86	1. 5. 84	31.12.84	219
18	" Jagindra Daimerry S/o D. R. Daimerry	1. 2. 85	1. 5. 84	31.12.84	123
19	Samaran Daimerry S/o Jitendra Ram Daimerry	1. 2. 86	1. 2. 84	31.12.84	324
20	" Sudhark Daimerry S/o Anu Ram Daimerry	1. 2. 86	1. 4. 84	31.12.84	153
21	" Malishank Daimerry S/o Lango Daimerry	3. 5. 85	1. 5. 84	31.5.85	326
22	" Jagdish Daimerry S/o Bawang Ram Daimerry	17. 2. 86	1. 5. 84	31.1.85	276
23	" Rajendra Daimerry S/o D. Daimerry	1. 2. 86	1. 5. 84	31.12.85	610
24	Lalchand Daimerry S/o Jitendra Ram Daimerry	6. 5. 86	1. 2. 84	31.12.84	331
25	Mamti Ram Daimerry S/o Meenakshi Daimerry	21. 3. 86	1. 5. 84	31.12.85	610
26	" Ajitram Daimerry S/o Jitendra Ram Daimerry	7. 3. 86	3. 5. 84	31.12.84	245
27	" Dinesh Daimerry S/o Anu Daimerry	12. 6. 86	3. 5. 84	31.12.84	243
28	" Sanjiv Daimerry S/o Jitendra Ram Daimerry	17. 3. 86	7. 5. 84	31.12.84	242

140	Game & Father's name	Date of birth	Marriage, Period from	Total marriage days	Remarks
141	Shri Rajen Sengupta S/o Shashi Ram Sengupta	13.3.66	3.5.84 30.12.84	243	Left Service.
142	Shri Ananta Sengupta S/o Late Bimal Sengupta	7.3.65	3.5.84 30.12.84	243	-0-
143	Shri Keshab Ch. Borka S/o K. K. Borka	25.9.66	6.8.84 31.12.84	513	Shifted to N.D.P.
144	Shri Dhanmichi Borka S/o Dhanmichi Borka	27.5.66	1.9.84 31.12.84	678	Left Service.
145	Shri Jitendra Borka S/o Jitendra Borka	16.7.66	2.9.84 31.12.84	680	Shifted to D.G.C.
146	Shri Arunabha Ray S/o M. Raymohun	31.3.66	2.9.84 31.7.86	780	Left Service.
147	Shri Arun Ch. Borka S/o Late Bimal Borka	1.8.66	1.9.84 31.12.86	368	-0-
148	Shri Samal Ch. Borka S/o Late M. Borka	18.6.66	5.1.85 31.8.85	238	-0-
149	Shri Ranjit Borka S/o Late M. Borka	1.10.66	6.1.85 31.8.85	238	Left to D.G.C.
150	Shri Manoj Ch. Borka S/o M. Borka	1.3.66	12.9.85 31.12.86	381	-0-
151	Shri Hari Chandra Borka S/o Nept Borka	3.5.66	1.5.85 31.12.86	610	Left Service.
152	Shri Arabinanda Borka S/o Dhanmichi Borka	1.9.66	1.5.85 31.12.86	610	-0-
153	Shri Prabhuji Sengupta S/o M.C. Sengupta	30.6.67	1.5.85 31.8.86	193	-0-
154	Shri Rakesh Borka S/o P. Borka	12.1.67	1.5.85 31.9.86	188	-0-

S.D.W.

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Sl no	Name of Author's name	Date of birth	Writings printed	Total writings days	Remarks
15	Sh. Manohar Lal Ganguly S/o D. R. Ganguly.	1. 9. 66	1. 6. 85 30. 12. 85	238	shifted to BII
16	Sh. K. N. Ganguly S/o P. Ganguly.	1. 3. 67	1. 6. 85 30. 12. 85	219	left service
17	Sh. K. N. Ganguly S/o Mahendra Ganguly.	28. 6. 67	13. 6. 85 30. 12. 86	231	shifted to BII
18	Sh. K. N. Ganguly S/o Mahendra Ganguly.	1. 2. 67	13. 6. 85 30. 4. 86	282	left service
19	Sh. K. N. Ganguly S/o Mahendra Ganguly.	15. 3. 67	3. 5. 85 30. 10. 85	131	shifted to BII
20	Sh. K. N. Ganguly S/o Mahendra Ganguly.	23. 6. 67	1. 6. 85 30. 11. 85	219	left service
21	Sh. K. N. Ganguly S/o Mahendra Ganguly.	1. 2. 67	13. 5. 85 30. 4. 86	363	left service
22	Sh. K. N. Ganguly S/o Mahendra Ganguly.	3. 8. 64	13. 6. 85 30. 4. 86	322	left service
23	Sh. K. N. Ganguly S/o Mahendra Ganguly.	20. 6. 67	13. 6. 85 30. 4. 86	322	left service
24	Sh. K. N. Ganguly S/o Mahendra Ganguly.	10. 4. 67	13. 6. 85 30. 4. 86	322	shifted to BII
25	Sh. K. N. Ganguly S/o Mahendra Ganguly.	4. 6. 67	13. 6. 85 30. 12. 86	282	left service
26	Sh. K. N. Ganguly S/o Mahendra Ganguly.	18. 2. 67	13. 6. 85 30. 4. 86	322	shifted to BII
27	Sh. K. N. Ganguly S/o Mahendra Ganguly.	16. 5. 67	13. 6. 85 30. 4. 86	322	left service
28	Sh. K. N. Ganguly S/o Mahendra Ganguly.	11. 2. 67	1. 7. 85 31. 1. 86	542	left service

1. Name & Father's name	2. Date of borno	3. Previous patient	4. To	5. Total Wards days	6. Remarks
		from	To		
67. Sri Krishnacharan S/o Chander Lal Datto.	6. 6. 66	13. 6. 66	30. 6. 66	322	Shifted to Boro.
68. Sopak. Dusumetam S/o Ajay. Dusumetam	5. 7. 66	1. 11. 66	31. 3. 67	308	
69. Ashok Ranachary S/o Lata M. Ranachary	11. 5. 67	1. 11. 66	31. 3. 67	426	
70. Shabir. Datto S/o Patti Datto.	30. 9. 67	1. 11. 66	31. 3. 67	426	
71. Krishnacharan Dusumetam S/o Suresh Dusumetam	1. 1. 68	1. 11. 66	31. 3. 67	181	
72. Purnima. Datto S/o Purna Ram Datto	20. 9. 67	1. 2. 67	31. 3. 67	495	Left Service.
73. Narayan S/o. Bhatiary S/o Kali Ram Bhatiary	10. 5. 66	31. 9. 66	31. 9. 66	763	Shifted to Boro.
74. Bhagendra Nath Datto S/o Beta Ram Datto	1. 9. 66	1. 9. 66	26. 8. 66	118	
75. Bhagendra Nath Datto S/o Chander Ram Datto	2. 1. 68	1. 2. 67	31. 12. 66	295	Shifted to Boro.
76. Bhagendra Nath Datto S/o Dibya Ram Datto	32. 4. 66	3. 2. 67	31. 12. 66	293	
77. Ratikanta Datto S/o Phulchari Datto	23. 6. 67	2. 6. 67	28. 11. 66	211	0.
78. Bhagendra Nath Datto S/o Gopal Datto	2. 4. 67	3. 6. 67	31. 12. 66	201	
79. Bhagendra Nath Datto S/o Malini Datto	1. 9. 67	1. 6. 67	31. 12. 66	219	
80. Bhagendra Nath Datto S/o Kali Ram Datto	1. 9. 67	1. 6. 67	31. 12. 66	201	
Average days in the hospital					
1. 11. 66					

P.M. 8/1967

53 J. H. C. S.

Pen/Conf/000001

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List of Casual Laborers working under  
us on December 1986.

SL No	Name & Father's Name	Date of birth	Where whom work	Whether SC/ST	Working Period from	To
1.	Sri Jitendra Baro.	19.5.66	PWU/BG/On 11/BIJGN	ST	1.4.84	30.9.84
2.	S/o Late Bipin Baro.					
2.	Sri Achut Ramchary S/o Rajendra Ramchary	1.4.67	"	"	13.6.85	30.4.86
3.	" Bipin Ramchary S/o Agnijit Ramchary	1.12.85	"	"	1.5.84	31.5.85
4.	" Monojit Km Basumatary S/o Jageswar Basumatary	5.8.65	"	"	1.5.84	31.12.84
5.	" Bipin Daimary S/o Nabin Ch. Daimary	12.4.66	"	"	13.4.85	30.4.86
6.	" Girish Ch. Basumatary S/o Sambari Basumatary	15.2.65	"	"	1.4.83	31.6.84
7.	" Budhan Ramchary S/o Madhab Ramchary	7.3.66	"	"	13.6.85	30.4.86
8.	" Lachit K. Basumatary S/o Panoram Basumatary	20.4.66	"	"	1.4.84	31.12.84
9.	" Dilip Chaudhary S/o Rameswar Chaudhary	12.2.66	"	"	1.2.84	31.12.84
10.	" Amin Baro S/o Late Moti Ram Baro	3.1.66	"	"		
11.	" Ratan Ch. Baro S/o Late Jamuna Baro	1.8.67	"	"	27.3.84	21.6.86
12.	" Makeswar Baro S/o Late Beniga Baro	30.2.66	"	"	1.5.84	30.12.84
13.	" Barun Brahma S/o Rap Mati Brahma	29.1.66			16.3.84	30.12.84

W1/86/CON/11/ BINGIN

"in DM  
P. file Am/CON"  
"Bingin's Case No."  
"110 - Recd"

Serial working day.	Remarks.
183	shifted to PW1/BG-CON/ BOE. on 30.9.84.
322	worked under PTLR against ELR vacancy shifted to PW1/CON/ BOE on 30.4.86.
396	do.
245	left Service
381	do.
448	do.
322	do.
275	left Service
334	left Service
541	do.
241	ELR vacancy made PW1/BG/CON/ BINGIN
245	ELR vacancy made left Service due to long SICK.
270	- 20 -
791	PW1/BG/CON/11/ BINGIN

Annexure - A

**N. F. RAILWAY**

Office of the Dy. Chief Engineer/ Con Bb Project. Jogighopa

No. E/ 255/ Con/ JPZ/

Dated: 17th July' 95

To,

GM/ CON/MLG

N. F. Railway.

**Sub:- Ex-Casual labour.**

**Ref:- Your letter No. E/ 255/ CON/ Seniority/ CL/Pt. VI Dated  
13.03.95.**

In reference to the above the list of ex-casual labour (ST) is sent  
herewith for your further disposal pleased.

For Dy. Chef Engineer/ const  
N.F. Rly./ Jogighopa.

*certified to be true copy  
J. B. Mung  
Advocate*

N.F. Rly

Dated 31.12.86

UN/ Rest/ 1

To,

XEN/ CON/ .....

Through AEN/ CON/ .....(sic)

**Sub:-** List of Casual labour

Sending herewith the list of Casual labours Containing 80 (eighty) Nos. only of Bngn. Sub-Division is send herewith for your necessary checking and record please.

Da( sic ). 3(three) sheets.

Sd/- Illegible

01.02.87

Vpur/ C/ Bngn

Sl. No. in O.A.	Name of the applicant	Sl. No. in the List Casual labourers
1.	Sri Ajant Boro	26
2.	Sri Bires Ch. Boro	50
3.	Sri Dilip Choudhury	9 Second list
4.	Sri Rabindra Boro	67
5.	Sri Lachit Kr. Basumotory	8 Second list
6.	Sri Pabitra Wary	69
7.	Sri Ram Nath Thakuria	53
8.	Sri Moni Ram Boro	25
9.	Sri Jiten Boro	1 Second list
10.	Sri Upen Boro	76
11.	Sri Rajen Swargiary	29
12.	Sri Makthang Daimary	21
13.	Sri Ratan Ch. Boro	11 Second list
14.	Sri Kartik Narzary	22
15.	Sri Warga Ram Daimary	79
16.	Sri Bipul Ramchiary	3 Second list
17.	Sri Monoj Kr. Basumatry	4 Second list
18.	Sri Lalit Ch. Boro	46
19.	Sri Girish Ch Basumatary	6 Second list
20.	Sri Maheswar Boro	12 Second list
21.	Sri Budhan Ramchiary	7 Second list
22.	Sri Ananta Sargiary	30
23.	Sri Bipin Daimary	5 Second list
24.	Sri Kanistha Basumatary	52
25.	Sri Samala Boro	19
26.	Sri Bapa Ram Boro	55
27.	Sri Laksi Boro	24
28.	Sri Achut Ramchiary	2 Second list
29.	Sri Nandi Daimary	80
30.	Sri Dinesh Ch. Boro	27

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : : GUWAHATI.

O. A. No. 281 of 2005

Sri Ajant Boro & Others ..... Applicants  
- VS -

Union of India & Others ..... Respondents

IN THE MATTER OF :

Reply by the Respondents in response to the  
Additional Affidavit filed by the Applicants.

Most respectfully Sheweth :

1. That the Respondents have gone through the Additional Affidavit filed by the Applicants and understood the contents thereof and deny the contents which are contrary to the records.
2. That for brevity and clarity of the case instead of submitting the para-wise reply the Respondents in reiterating their earlier submission in the Written statement humbly state that the *and documents* allegation made by the Applicants are fabricated, fake, forged and fraudulent and thus their claim are not genuine and not substantiating on the right foot of the track to yield the coveted result.
3. That it is submitted that on verification of the records it is found that no such casual labour as contemplated by the Applicants in their list annexed was engaged in the Jogighopa Project so far.

Received  
Placing  
21/11/06

File No.: 21/11/06  
Advocate  
J. P. Bhattacharya  
J. P. Bhattacharya-131

4. That the Applicants in their Additional Affidavit have annexed the unverified copies of lists and letters. The answering Respondents state that the Applicants must file the certified true copies <sup>of</sup> the originals of those documents so as to exhibit their strictest proof of genuine claim based on records. The Respondents raise their objections for filing of such uncertified records by the Applicants which may kindly be recorded in the Court's order.

5. That regarding the Casual Labour Cards submitted by the Applicants the Respondents re – iterate in their submission that the signatures of officer/officials shown in those Cards do not corroborate with the signatures of the officers/officials kept and available in the office. It is also submitted that the Respondents have obtained the necessary Findings of the Forensic Expert on this issue and will be produced in the court at the time of Final Hearing. Thus it proves that the genuineness of the claim and the documents produced by the Applicants are fake, fabricated and false and, hence, not tenable in the eye of Law.

6. That the Respondents humbly pray that the subject O. A. merits rejection of the claim with costs on the grounds mentioned in the Respondents' written statement and on the strength of the contents of the statements made in this Reply.

1. B. Balkar/Gurjeet-Singh

VERIFICATION

I, Sri *Ashup Kumar Sinha* S/o *At. Anil Kumar Sinha*  
aged about 56 years, working in the Official capacity as  
Assistant Personnel Officer/ Construction, N. F. Rly Maligaon,  
do hereby solemnly affirm and verify that the contents made in  
paragraphs 2 to 5 are all derived from records which I  
believe to be true to the best of my knowledge and  
information and the paragraphs 1 to 6 are my respectful  
submission.

And I sign this verification on this 20<sup>th</sup> day of November'2006.

For and on behalf of the Respondents.

*Ashup Kumar Sinha* 20/11/06  
N. F. Rly/Construction-78101

To

The Dy. Registrar,  
Central Administrative Tribunal, Guwahati