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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No 225/2006

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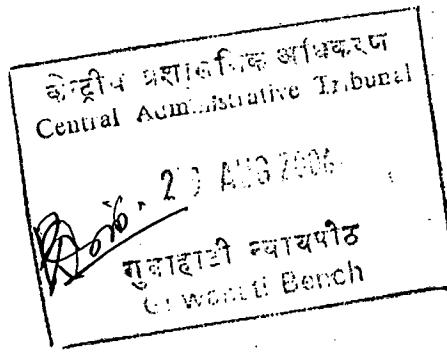
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Salib
26.10.17

ORDERS SHEET

Applicant(S) Upen Narzary Jobs
Respondant(S) H.O.T Jobs
Advocate for the Applicant(S). Mr. H. K. Sharma...
Ms. B. Devi.....
Dr. J. L. Sankar, ..
Advocate for the Respondant(S). Railway Counsel.....

Notes of the Registry	Date	Order of the Tribunal
<p>Application No. 266/223585 is filed in P. for Rs. deposited with the P.D. No. 266/223585 Dated 12.8.06</p> <p><i>Gleeth</i> Dy. Registrar</p> <p><i>Di</i></p> <p>Steps not taken.</p> <p><i>Di</i></p> <p>14.9.06 Copy of the order has been sent to The Office for disposal of the case to the L/Advocates for the parties</p>	<p>31.8.06.</p> <p>1m</p> <p>06.09.2006</p>	<p>Post the matter on 6.9.06.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.</p> <p>Dr. J.L. Sarkar, learned Standing Counsel for the Railways submitted that the Application is not maintainable in the present form, since it is bad for mis- joinder of necessary of parties. Ms. B. Devi, learned Counsel for the Applicants submitted that she may be permitted to withdraw the Application with liberty to file separate Application. The submissions of the learned Counsel for the parties are recorded and the learned Counsel for the Applicants is permitted to withdraw the Application with liberty to file separate Application.</p> <p>The O.A. is dismissed as withdrawn.</p> <p><i>[Signature]</i> Vice-Chairman</p>



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH.

Title of the case :

O.A. No. 225 of 2006

BETWEEN

Upen Narzery & Ors. Applicants.

AND

Union of India & ors. Respondents.

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Filed by : *Di* Regn.No.:
File : d:\private\upen Date : 28/8/06

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. No. 225 of 2006

BETWEEN

Upen Narzery & Ors. Applicants.

AND

Union of India & ors. Respondents.

SYNOPSIS

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

As per rule the respondents are duty bound to maintain a line register of the casual and ex-casual workers to provide work as per their seniority.

In the instant case the applicants have not been provided with regular work as per their seniority. Non-maintenance of such register deprived the applicants their due claims of regularisation. Hence this application.

Filed by :-
The Applicants
through
Bandana Devi
Advocate
28/8/06

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A.No. 225-.../06

BETWEEN

1. Upen Narzery
2. Durga Ram Daimary
3. Ratneswar Boro
4. Haricharan Basumatary
5. Anil Kalita
6. Sunil Ch. Boro
7. Ramnath Pathak
8. Biren Boro
9. Bhagiram Basumatary
10. Ramesh Ch. Boro
11. Phukan Ch. Boro
12. Malin Kr. Das
13. Tarun Ch. Boro
14. Maina Boro
15. Praneswar Boro
16. Nagendra Boro
17. Pradip Boro
18. Haren Das
19. Kishore Kumar Mandal
20. Habul Ghosh
21. Pradip Sarma
22. Ansuma Swargiary
23. Suren Daimary
24. Angat Das
25. Lohit Ch. Boro
26. Krishna Ram Boro
27. Robin Daimary
28. Monoranjan Daimary
29. Biren Baishya
30. Ratan Boro
31. Suren Ramchiary
32. Mizing Brahma
33. Ranjit Brahma
34. Joydev Swargiary
35. Raju Borah
36. Rajkumar Mandal
37. Naren Ch. Boro
38. Naren Ch. Basumatary
39. Radheshyam Mandal
40. Nanilal Narzary
41. Swargo Boro
42. Biren Baishya
43. Dhaneswar Rahang
44. Manteswar Boro
45. Ratikanta Boro
46. Joy Ram Boro
47. Sanjib Boro
48. Khargeswar Swargiary
49. Pradip Kumar Boro
50. Monoranjan Deuri

51. Ramesh Ch. Ramchiary
52. Gopal Basumatary
53. Ranjit Swargiary
54. Ratnakanta Boro
55. Nirmal Kr. Brahma
56. Monoj Das
57. Mrinal Das
58. Sanjay Kr. Narzary
59. Ajit Sarania
60. Pankaj Baruah
61. Bipin Ch. Boro
62. Neapolion Lahary
63. Rajen Lahary
64. Pradip Das
65. Chandan Dev Nath
66. Kamaleswar Boro
67. Simanta Ram

All Ex-Casual Labourers in the Alipurduwar Division, (BB/CON), N.F.Railway.

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

...Respondents

DETAILS OF APPLICATION

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

This application is directed against the inaction on the part of the respondents in ignoring the cases of the applicants towards granting the benefit of regularisation in terms of the policy decision adopted by them, whereas

under the same fact situation persons similarly situated have been granted the said benefit.

This application is also directed against identical impugned orders dated 10.2.86 rejecting the claim of the applicants as well as other connected orders in this regard.

2. JURISDICTION

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

3. LIMITATION

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

4. FACTS OF THE CASE

4.1. That the applicants are citizens of India and permanent residents in the State of Assam and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India. The applicants mostly belong to the Scheduled Caste and Scheduled Tribe Community and as such they are entitled to the Special privileges guaranteed under the Constitution of India & the laws framed thereunder.

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

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

4.3. That the applicants who belonging to the most economically backward sections of the society, discharged their duties under the Respondents without any blemish and from the earning so derived by them they some how managed to maintain their families. Poised thus, the applicants were discharged from their respective services on different dates by the Respondents. The applicants who did not know about their rights and the protections available to them against the arbitrary action on the part of the Respondents, could not protest against the same. The modus operandi adopted by the Respondents was that the applicants were verbally asked

not to come to work and no written order were issued in this connection. Even after discharge from their services, the applicants continued to serve under the Respondents in various projects launched by the authorities. This was done only to frustrate their future claim of regularisation.

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

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

of the applicants and their service particulars were mentioned. Mere perusal of the statement showing the service particulars of the applicants would go to show that the applicants had the requisite number of working days entitling them to the benefits of Temporary status and regularisation.

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

4.6. That the respondents on receipt of the representations from the applicants as well as from the organisations/Union espousing their cause decided to regularise the services of casual workers including the present applicants. The railway administration to that effect issued instructions to all its wings for furnishing necessary information regarding absorption of the applicants and other similarly situated persons against the available Group-D vacancies. In this connection it will not be out of place to mention here that in response to such a move/decision the Divisional authorities of various wings of the Railways started collecting data and furnished the same to the concern authority. In this connection communication dated 13.2.95 may be referred to wherein the Divisional Railway Manager (P), Alipurduwar, while indicating the vacancies available, sought for particulars from the concern authority. Names of 56 persons were forwarded indicating them to be ex-casual labourers. Among these 56 candidates names of some of the applicants are also figured.

A copy of the said letter dated

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13.2.95 is annexed herewith and marked as Annexure-2.

4.7. That after verification and cross verification of the records pertaining to the service rendered by the said persons, the office of the Respondent No.2 vide letter under Memo No.E/57/CON/(SC/ST) dated 24.4.95 confirmed the service particulars of all the person referred to it, which includes the applicants.

A copy of the said letter dated 24.4.95 is annexed hereto as Annexure-3.

4.8. That after the aforesaid development, the office of the Respondent No.2 vide letter dated 4.8.95 addressed to the DRM(P), APDJ furnished the full service particulars of the ex-casual labourers (ST/SC) as indicated in the enclosed proforma. As regards the General Manager's approval, it was stated that the case was under scrutiny.

A copy of the letter dated 4.8.95 is annexed hereto as Annexure-4.

4.9. That the applicants state that their names figured amongst the 120 Nos of persons in the said list and the services of the applicants who worked in the Construction organization having also been approved they were under the legitimate expectation that necessary approval of the General Manager, N.F.Railways would be obtained as regards

their initial appointment. The Respondent No.3 vide his letter dated 8.8.95 requested the Respondent No.2 to obtain personal approval of the G.M., N.F.Railway as regards the Ex-Casual Labourers who served in the Construction Organisation.

A copy of the said letter dated 8.8.95 is annexed hereto as Annexure-5.

4.10. That after confirmation of their service particulars, the only hindrance in regularisation of their services was the approval (Ex-post facto) of the G.M., N.F.Railways. At the relevant point of time Ex-post facto approval was accorded to persons similarly situated like the applicants. The services of persons similarly situated like the applicants having been granted Ex-post facto approval, there existed any earthly reason for not according the same to the applicants and for absorbing them against the vacancies available in Grade 'D' posts. Be it stated here that sufficient number of vacancies exist under the respondents against which the applicants can be easily accommodated.

4.11. That after verification and cross verification the office of the Respondent No.2, confirmed the service particulars of the persons referred to them. As the names of the applicants were not forwarded to the said wing they were denied of opportunity of having their service particulars confirmed and thereby have lost the

opportunity of being considered for appointment on regular basis, whereas similarly situated persons got their appointments.

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

4.13. That your applicants state that the Respondents having utilised their services, now can not deny to them their due service benefits. It is not understood as to why a differential treatment is being meted out to the applicants as regards grant of approval to their initial appointment. The list wherein the names of the applicants figured having been verified and the service particulars of the candidates having been stated to be confirmed, there exists no reason for not granting the due benefits to the applicants.

4.14. That on the back drop of the said facts, number of the Ex-casual labourers who were similarly

situated like the applicants approached this Hon'ble Tribunal by way of an O.A. being O.A. No.79/96. interalia praying for a direction for their absorption against the back log vacancies available for SC/ST candidates. This Hon'ble Tribunal upon hearing the parties was pleased to dispose of the said Original Application with a direction to the Respondents to consider the cases of the applicants, thereto and to take a decision as regards their appointment within the time limit specified therein.

A copy of the order dated 11.1.99 is annexed hereto as Annexure-6.

4.15. That your applicant states that the applicants in O.A. 79/96 preferred representations as directed but the same were not attended to. But ultimately the Respondents in the month of December, 1999 issued call letters to persons similarly situated like the applicants on pick and choose basis, for attending a Screening for absorption against a Group 'D' posts. But the applicants whose names were also figured in the said list were not issued with any call letters and were kept in dark about the said process. The whole exercise was carried out behind the back of the applicants.

4.16. That your applicant states that although they are similarly situated with the applicants in the O.A. 79/96 their case were not considered in the Screening held and as such they were deprived of an opportunity for consideration of their cases for appointment on regular basis under the respondents. The persons who were called for screening, were

selected for appointment against Grade 'D' posts. This aspect of the matter would be clear from mere perusal of the memorandum dated 21.4.2000 issued by the Respondent No.3. Be it stated here that amongst the persons so selected include persons who had joined their services under the respondents along with the applicants and/or were junior to the applicants and as such the applicants were discriminated in the matter of public employment.

A copy of the said letter dated 21.4.2000 is annexed hereto as Annexure-7.

4.17. That your applicant states that the persons screened and selected vide Annexure-7 memorandum dated 21.4.2000 were appointed against vacancies available in Group 'D' posts and for this necessary post facto approval was also granted by the G.M., N.F.Railways. But the applicants who were similarly situated were deprived of this benefit.

4.18. That the applicants on coming to learn about the deprivation being meted out to them as regards their appointment, took up the matter with the All India Scheduled Caste and Schedule Tribes Railway Employees Association, who in turn brought the deprivation being meted out to the applicants before the National Commission for SC and ST. The organizations thought for the rights of the applicants in the National Commission for SC and ST. The organizations

fighting for the rights of the applicants, have all along been requesting the respondents to take steps for appointing all the Ex-casual labourers on regular basis. Be stated here that the names of the applicants were also recommended and submitted by the organizations fighting for the rights of the applicants.

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

4.20. That your applicants state that there is no dispute as regards the fact that they were engaged as casual labourers, at different points of time, by the respondents and they having expressed their willingness for being appointed against any Group-IV vacant posts, it was incumbent upon the respondents to take necessary steps for considering the cases of the applicants for such appointment. The pick and choose method adopted by the respondents in this connection has resulted in the applicants being discriminated in the matter of public employment.

4.21. That pending consideration of the case of the applicants, the Respondents have issued an advertisement

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

A copy of the said advertisement is annexed hereto as Annexure-8.

4.22. That your applicants state that aggrieved by the action of the Respondents for non-consideration of the cases of the applicants, the applicants preferred original application No.44/02,43/02 and 259/02 praying for a direction towards the Respondents to consider their cases for any Group-D post and to appoint them against vacant group-D posts available for filling up SC/ST backlog vacancies. The applicants also made prayer for a direction to the General Manager N.F.Railway, Maligaon to issue necessary approval towards the appointment of the applicants.

That applicants state that the Hon'ble Tribunal after hearing both the parties was pleased to disposed of the said OA directing the applicants to submit their representation giving the details of their services as far as practicable to the respondents authority narrating all the facts within six weeks from the date of receipt of the order and after filing such representations within that time

the respondents shall exercise the same as expeditiously as possible preferably within two months from the date of receipt of the same and take appropriate decision as per law.

The applicants crave leave of this Hon'ble Tribunal to produce the same at the time of hearing of the case.

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

Copies of one of such representations dated 25.5.03 and the impugned order dated 18.3.04 are annexed herewith and marked as Annexure- 9 & 10 respectively.

4.24. That the applicants beg to state that the chief personnel officer/IR for General Manager (P) issued a letter to the CE/Con-II/MLG bearing No.E/57/2/11(E) Loose dated 17.3.04 by which requests has been made to examine the

issue of regularisation of Group of Casual Labourers in APDJ division (Under construction) and take appropriate action without further delay. An advise had been sought for action taken so as to apprise Railway Board with reference to the pending MR reference.

A copy of the order dated 17.3.04 is annexed herewith and marked as Annexure-11.

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

This is also informed that both WLI/Con/MLG and Dy.CE/Con/JP2 have been given the report that though the names of the applicants were found available in the documents but the signatures as appearing in the casual labour cards are not tallying and on the basis of aforesaid

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reports, the individual applicants of the OAs had since been informed by the office vide letter No.E/63/Con/I dated 18.3.04 that genuineness of the claim could not be established hence the case is rejected.

A copy of the said letter dated 25.3.04 is annexed herewith and marked as Annexure-12.

4.26. That the applicants beg to state that the applicants could obtain a copy of the order bearing No.E/227/ESV/(E) AP dated 30.3.04 issued by the A.P.O./II for Divisional Railway Manager(P) Alipurduwar Junction to the General Manager (P), N.F.Railway/Maligaon intimating the fact due to non-availability of sufficient documents the cases of the applicants could not be verified. And also apprised the fact that though assurances have been given by the GM/Con/MLG to send all the available documents but same could not be sent to the Hon'ble Central Administrative Tribunal, Guwahati.

A copy of the aforesaid letter dated 30.3.04 is annexed herewith and marked as Annexure-13.

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

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

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

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

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

Hence no comments regarding genuineness.

A copy of the said letter dated 16.3.04 is annexed herewith and marked as Annexure-14.

4.28. That the applicants begs to state that the action of the Respondents in passing the impugned order dated 18.3.04 is per se illegal arbitrary and violative of

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natural justice. The respondents did not give any personal hearing at the time passing the order. The names and service particulars are found in the records but only the signatures of the officer could not be verified. Since the service particular of the applicants are found on the Respondents ought not to have passed the aforementioned impugned order basing only the ground of non availability of records. It was the duty of the respondents to keep the records. It is the settled law that M/R register is the basic ground to verify the claim of the M/R workers.

4.29. 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 sustainable and liable to be set aside. The Respondents at the time of disposing of the representations of the only took into consideration the signature, of the officer on the records not the service particulars.

Since the records contained the identity cards along with photograph and the statements/biodata was in order, so the respondents should have taken into consideration the photograph of the applicants and must give personal hearing as well as the data which were telling with the original records.

4.30. That assailing the legality and validity of the aforesaid impugned action, the present applicants in 3 groups preferred Original Applications before the Hon'ble Tribunal which were registered and numbered as OA Nos.

336/04, 337/04, 338/04. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said OAs vide common judgment and order dated 19.7.05 directing the respondents to consider the cases of the applicants afresh towards regularisation of their services within a period of four months from the date of receipt of the order.

A copy of the said judgment and order dated 19.7.05 is annexed herewith and marked as Annexure-15.

4.31 That the applicants beg to state that the Hon'ble Tribunal, while addressing the issue regarding the genuineness of identity card as well as the defence advanced on behalf of the railway administration in their pleadings including the records, made an observation that it was the railway administration who maintain the records at the same time as controverting the genuineness of the same. For better appreciation of the factual aspect of the matter the observation made by the Hon'ble Tribunal is quoted below.

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 holding discussing 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 bold statements.

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

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the earlier written statements were held 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 of merits as directed hereinabove.

4.32. That the applicants beg to state that the Hon'ble Tribunal as stated above while discussing the entire mater directed the railway authority to consider the cases of the applicants ignoring the identity cards and were directed to take into consideration the Xerox copy of the live register maintain by them while verifying the cases of the applicants.

4.33. That the applicants immediately after the pronouncement of the aforesaid judgment dated 19.7.05 submitted representations before the concern authority but there was no response from the railway administration towards disposal of the said representation. Having no other alternative the applicants had to approach the Hon'ble Tribunal once again by filing CP No.36/05 (OA No.337/04), CP No.37/05 (OA No.336/04) and CP No.38/05 (OA No.338/04). During the pendency of the contempt petitions the contemnors submitted their reply enclosing a copy of one of the identical impugned orders dated 10.2.06 rejecting the case of the applicants. The Hon'ble Tribunal after hearing the

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parties also going through the said order dated 10.2.06 closed the aforesaid contempt petitions vide judgment and order dated 10.3.06.

Copies of the said order dated 10.2.06 and the judgment and order dated 10.3.06 is annexed herewith and marked as Annexure-16 and 17.

4.34. That the applicants beg to state that the respondents while issuing the impugned order dated 10.2.06 rejected the claims of the applicants. The respondents took into consideration the authenticity of the identity cards as well as live register of casual workers. The said grounds were taken by the respondents in OA Nos.336, 337 and 338/04 and those ground having been said to be unfounded by the Hon'ble Tribunal in its judgment and order dated 19.7.05, the respondents ought not to have reiterated the same stand. It is noteworthy to mention here that the respondents against the judgment and order dated 19.7.05 have not preferred any appeal/Writ petition and as such by operation of law same attained its finality and it is not open for the respondents to reiterate the same. In this contention it will not be out of place to mention here that the law is well settled that if a judgment passed by a competent Court of law is not assailed, same attains its finality and it operates as Res-judicata between the parties.

4.35. That the applicants beg to state that the respondents by the aforesaid impugned order dated 10.2.06 virtually made an attempt to rewrite the judgment and order

dated 19.7.05 for which they are liable for severe punishment. Apart from that the judgment and order dated 19.7.05 having not been assailed same attained its finality and same is binding on the railway administration. In the judgment and order dated 19.7.05 in para 6 the Hon'ble Tribunal while evaluating the statements made by the applicants as well as the counter statements made by the respondents and the records observed that the stand taken by the railway regarding authenticity of the record is totally baseless and on that background of the case in para 8 of the said judgment the Hon'ble Tribunal directed the railway administration to examine the cases of the applicants taking into consideration the Xerox copy of the casual labour live register ignoring the identity cards. The Hon'ble Tribunal vide its aforesaid judgment dated 19.7.05 also rejected the earlier impugned orders dated 18.3.04. It is noteworthy to mention here that the contention of the impugned orders dated 10.2.06 is nothing but the reiteration of the impugned orders dated 18.3.04 and as such same are not maintainable in the eye of law and required to be set aside and quashed.

4.36. That the applicants beg to state that there is no dispute as to the genuineness of the bio-data of the applicants and same having been verified to be correct reflection of which is apparent in the communication dated 16.3.04, therefore the respondents ought not to have issued the impugned orders dated 10.2.06 which is violative of the direction and observation made in the judgment and order dated 19.7.05.

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

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

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

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the action of the respondents in passing the impugned order dated 10.2.06 is illegal, arbitrary and violative of natural justice, hence same is liable to be set aside and quashed.

5.2. For that the procedure adopted by the Respondents in disposing of the representation without taking into consideration the records found at the time of verification and the rejection of their claim on the ground of

genuineness is not at all sustainable in the eye of law as same has been done without giving personal hearing to the applicants violating the natural justice of the applicants hence same is liable to be set aside and quashed.

5.3. For that the impugned action on the part of the authorities in denying to the applicants their due appointments is in clear violation of the judgment and order passed by the Hon'ble Tribunal as well as the Principles of Natural Justice in addition to being arbitrary, illegal and discriminatory. The respondents while passing the impugned order have virtually nullified the judgment and order passed by the Hon'ble Tribunal. The judgment and order passed by the Hon'ble Tribunal having attained its finality, the respondents ought not to have interfered with by passing the impugned order.

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

5.5. For that the Respondents can not take advantage of the fact that the applicants belong to the lower stratum of the society and their ignorance of their rights. All of them being members of ST community are entitled to special privileges.

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

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

6. DETAILS OF REMEDIES EXHAUSTED:

The applicants declare that they have no other alternative and efficacious remedy except by way of filing this application.

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

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

8. RELIEF SOUGHT FOR:

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

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

8.1. To set aside and quash the impugned order dated 10.2.06 as same is violative of natural justice and not sustainable in the eye of law.

8.2. To direct the Respondents to appoint the applicants against Group-D posts as has been done in case of similarly situated employees.

8.3. To direct the respondents to keep 67 posts vacant till consideration for appointment of the applicants.

8.4. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

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

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10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O.

- (i) I.P.O. No.: 266 323585
- (ii) Date: 12-8-06
- (iii) Payable at: Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.

VERIFICATION

I, Shri Dhaneswar Rahang, aged about 34 years, son of J. Rahang, presently residing at Village Hakalpara, Dist-Kokrajhar, Assam, in the district of Kamrup, Assam, do hereby solemnly affirm and state that the statement made in this petition from paragraph 4.2-4.3, 4.12-4.13 4.19-4.20, 4.29 are true to my knowledge and those made in paragraphs 4.4-4.11, 4.14-4.18 4.21-4.28, 4.30-4.33 are matters records of records information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I am the applicant No 43 in the present application and I am well acquainted with the facts of the case and I have been authorised by the other two applicants to swear this verification.

And I sign this verification on 28th day of Aug 2006.

Dhaneswar Rahang
Deponent

The left-over name from (120) & (58) Ex. Casual lists of SC & ST Candidate with old serial Nos. & Biodata

Sl. No.	Old Sl. No.	Name	Father's Name	Date of birth	Dt. of engagement	Dt. of Discharged	Address
I	II	III	IV	V	VI	VII	VIII
1	61	Sri Suren Ramchiary	S. Ramchiary (ST)	22-01-63	27-03-84	07-01-86	C/O N C Basumatary Vill. - Namanigaon P.O. - Rangapara, Dist. - Sonitpur, Assam.
2	75	Sri Ratan Boro	Jamuna Boro (ST)	01-02-66	02-04-84	31-12-86	Vill. - Natun Ghatuwa P.O. - Phuluguri Dist. - Sonitpur, Assam.
3	83	Sri Mizing Brahma	H. Brahma (ST)	03-05-66	13-06-85	31-12-86	Vill. - No.2 Phul Somoni P.O. - Gelapukhuri, Dist. - Sonitpur, Assam.
4	92	Sri Ranjit Brahma	Karuna Brahma (ST)	01-10-66	05-01-85	31-08-85	Vill. - No. 2, Kailajuli P.O. - Dop- Dop Via. - Rangapara Dist. - Sonitpur, Assam.
5	95	Sri Jaidev Swargiary	Pamal Swargiary (ST)	27-03-65	01-07-85	31-01-86	Vill. - Padampukhuri P.O. - Badeti Dist. - Sonitpur, Assam.
6	97	Sri Naren Ch. Basumatary	Agan Ch. Basumatary (ST)	25-02-66	07-05-85	31-08-86	C/O H. Boro Vill. - Rangapara, N. Colony 223 P.O. - Rangapara Dist. - Sonitpur, Assam.
7	101	Sri Raj Kumar Mandal	Radha Krishna Mandal (ST)	20-05-67	01-02-85	31-12-86	C/O Sri Dilip Kr. Ghosh Ward No.2 Loco colony P.O. - Rangapara Dist. - Sonitpur, Assam.
8	102	Sri Biren Baishya	Baga Ram Baishya (SC)	10-11-66	03-05-85	31-12-85	C/O L.R. Boro Madhabdev nagar P.O. - Maligaon, Ghy Dist. - Kamrup, Assam.

Attested 34
By
Advocate

9.	103	Sri Angat Das	Rupen Das (SC)	15-03-67	03-05-85	31-10-85	C/O Krishna Dutta Rly. Market, Ward no.-2 P.O. - Rangapara Dist. - Sonitpur, Assam.
10.	104	Sri Radhe Shyam Mandal	Harekrishna Mandal (SC)	15-03-67	01-03-85	31-12-85	C/O Haricharan Sutradhar Hindugaon, Ward No.-2 P.O. - Rangapara Dist. - Sonitpur, Assam.
11.	108	Sri Manilal Narzary	Debu Ram Narzary (ST)	02-09-66	30-06-85	30-06-86	Vill. - Padampukhuri P.O. - Badeti Dist. - Sonitpur, Assam.
12.	110	Sri Swargo Boro	Dina Ram Boro (ST)	02-02-66	27-03-84	21-06-86	Vill. - Simaluguri P.O. - Khilikhaguri Dist. - Sonitpur, Assam.
13.	111	Sri Ramesh Ch. Boro	Dina Ram Boro (ST)	01-01-66	27-03-84	21-06-86	Vill. - Simaluguri P.O. - Khilikhaguri Dist. - Sonitpur, Assam.
14.	25	Sri Biren Baishya	Daya Ram Baishya (SC)	25-03-68	03-05-86	31-12-87	C/O Biraj Das Vill. - Rangapara, Garden Colon P.O. - Rangapara Dist. - Sonitpur, Assam.
15.	114	Sri Jogendra Pasi	Sacheda Pasi (UR)	03-02-67	21-07-75	15-11-75	Vill. - Alipurduar Jn. Rly. Qr. No. 368/B P.O. - Alipurduar Jn. Dist. - Jalpaiguri, N. Bengal
16.	115	Sri Ramji Das	Sundar Das (SC)	21-04-67	21-07-75	15-11-75	Vill. - Santicolony, Near SC/ST office P.O. - Alipurduar Jn. Dist. - Jalpaiguri, N. Bengal
17	69	Sri Naren Ch. Boro	Phani Ram Boro (ST)	05-03-68	10-04-86	15-05-87	Vill. - Silikhabari Via Thelamara P.O. - Silikhabari Dist. - Sonitpur, Assam.

List of the supplementary Ex. Casual worker under BG/Con./BNGN. N. F. Railway of 6 line Project.

Sl. No.	Name	Father's name	Caste	Date of birth	Dt. of engagement	Dt. of Discharged	Address
I	II	III	IV	V	VI	VII	VIII
1.	Sri Habul Ghosh	Ruplal Ghosh	UR	12-01-65	21-01-83	07-01-85	Vill.- Rangapara P.O.- Rangapara Rly. Market Dist.- Sonitpur, Assam.
2.	Sri Haren Das	M. Das	SC	11-02-69	04-01-87	15-08-87	Vill.- Umanada P.O.- Kerpabhita Dist.- Kamrup, Assam.
3.	Sri Kishor Kumar Mandal	Brindaban Mandal	SC	13-01-69	04-01-87	30-08-87	Vill.- Hindugaon, Rangapara, W/No.- 2 P.O.- Rangapar, Dist.- Sonitpur, Assam.
4.	Sri Maina Boro	Upen Chandra Boro	ST	01-03-68	15-02-86	31-12-88	Vill.- Sastrapara (Batabari) P.O.- Murmela Dist.- Darrang, Assam.
5.	Sri Nagendra Boro	Lakhi Ram Boro	ST	05-02-69	09-02-87	15-08-88	Vill.- Sastrapara (Barigaon) P.O.- Ratanpur Dist.- Darrang, Assam.
6.	Sri Praneswar Boro	Sani Ram Boro	ST	11-01-68	03-01-87	15-03-88	Vill.- Sastrapara (Batabari) P.O.- Murmela Dist.- Darrang, Assam.
7.	Sri Biren Boro	Upen Chandra Boro	ST	02-09-69	01-10-87	31-12-88	Vill.- Kalmani P.O.- Jayantipur Dist.- Kamrup, Assam.
8.	Sri Bhogi Ram Basumatary	R. Basumatary	ST	07-02-69	10-02-87	31-12-88	Vill.- Dhepargaon P.O.- Dhepargaon Dist.- Kamrup, Assam.
9.	Sri Anil Kalita	Arbinda Kalita	UR	11-01-68	15-02-88	31-12-88	Vill.- Niz Khana P.O.- Jalkhana Dist.- Nalbari, Assam.

The supplementary list which was submitted on 08-06-2000 to DRM (P) APDJ for absorption & Scrutiny

Sl. No.	Name	Father's name	Caste	Date of birth	Dt. of engagement	Dt. of Discharged	Address
I	II	III	IV	V	VI	VII	VIII
1.	Sri Dhaneswar Rahang	Janta Rahang	ST	03-02-67	01-06-85	31-08-85	Vill.- Rangkof Tiniali P.O.- Jonai Dist.- Dhemaji, Assam
2.	Sri Lohit Ch. Boro	Bhulo Ram Boro	ST	05-06-67	13-05-85	30-11-86	Vill.- Tenga Para, W/No. - 5 P.O.- Kokrajhar Dist.- Kokrajhar, Assam.
3.	Sri Rati Kanta Boro	Phukan Boro	ST	23-06-67	02-05-86	28-11-86	Vill.- Ahatguri (Chenial Para) P.O.- Khoirabari Dist.- Darrang, Assam.
4.	Sri Monoranjana Daimary	Jabla Daimary	ST	07-03-65	01-05-85	31-12-85	C/o Dinesh Boro Vill.- Madhab Dev Nagar P.O.- Maligaon, Ghy-11 Dist.- Kamrup, Assam.
5.	Sri Manteswar Boro	Aba Ram Boro	ST	03-02-67	01-05-85	31-12-85	C/o Uttam Narzary Vill.- Ranighat. P.O.- Simbargaon Dist.- Kokrajhar, Assam.
6.	Sri Joy Ram Boro	Manda Boro	ST	20-02-67	01-01-84	31-12-84	Vill.- Ratanpur (Maganchuba) P.O.- Ratanpur Dist.- Darrang, Assam.
7.	Sri Haricharan Basumatary	Jogen Basumatary	ST	17-02-65	03-05-83	31-12-84	Vill.- Chutiapara (Bala hodi) P.O.- Gurmow via- Goreswar. Dist.- Kamrup, Assam.
8.	Sri Durga Ram Daimary	Maya Ram Daimary	ST	03-07-65	01-05-84	31-12-84	Vill.- Hemdol P.O.- Gopalpur Dist.- Kamrup, Assam.
9.	Sri Sanjib Boro	Bhanu Boro	ST	13-03-66	07-05-85	31-12-84	C/O Niranjan Narzary Vill.- Phuthaigaon (Shalbari) P.O.- Aflagaon Dist.- Kokrajhar, Assam.

Sl. No.	Name	Father's name	Caste	Date of birth	Dt. of engagement	Dt. of Discharged	Address
I	II	III	IV	V	VI	VII	VIII
10.	Sri Khargeswar Swargiari	Gauranga Swargiari	ST	01-02-67	13-05-85	30-04-86	C/O Nagen Basumatary Vill.- Namanigaon P.O.- Rangapara Dist.- Sonitpur, Assam.
11.	Sri Pradip Kumar Boro	Bangshi Boro	ST	31-03-70	03-02-88	20-01-89	Vill.- Chapra P.O.- Medaghat, Via-Kadamta Dist.- Nalbari, Assam
12.	Sri Upen Narzary	Hadang Narzary	ST	31-12-68	03-05-87	31-12-87	Vill.- Tengapara, Ward No.-5 P.O.- Kokrajhar Dist.- Kokrajhar, Assam
13.	Sri Tarun Ch. Boro	Bimal Boro	ST	03-06-67	03-05-86	31-12-87	Vill.- Kailajuli P.O.- Dop-Dopi, Via Rangapa Dist.- Sonitpur, Assam.
14.	Sri Ramesh Ch. Ramchiary	N. Ramchiary	ST	01-03-70	03-02-88	20-01-89	C/o Upen Narzary Vill.- Tengapara, W/No.-5 P.O.- Kokrajhar Dist.- Kokrajhar, Assam.
15.	Sri Monoranjana Deory	Bhuban Deory	ST	11-11-67	15-03-86	31-12-86	Vill.- Pachim Sitara P.O.- Rangiya (RS) Dist.- Kamrup, Assam,
16.	Sri Ram Nath Pathak	Dindayal Pathak	SC	04-06-67	13-06-86	31-12-86	C/O Rabin Pathak Vill.- Teteliguri, W/No.-1 P.O.- Rangiya Dist.- Kamrup, Assam.
17.	Sri Gopal Basumatary	Binay Basumatary	ST	05-07-66	01-11-85	30-04-86	Vill.- Kargaon P.O.- Kargaon Dist.- Kokrajhar, Assam.
18.	Sri Malin Kumar Das	Bandhuran Haloi	SC	01-09-68	01-02-87	31-12-87	Vill.- Rampur P.O.- Rampur Deka Para Dist.- Barpeta, Assam,

19	Sri Ranjit Swargiary	Bali Ram Swargiary	ST	05-03-68	01-02-87	31-12-87	Vill.- Dakhin Bengsimari P.O.- Amingaon (Jopadang) Dist.-Nalbari, Assam.
20	Sri Ratna Kanta Boro	Jadav Ch. Boro	ST	01-03-67	03-04-86	31-12-87	Vill.- Tengapara W/No-5 P.O.- Kokrajhar Dist.-Kokrajhar, Assam.
21	Sri Nirmal Kumar Brahma	Sarbeswar Brahma	ST	02-09-70	03-02-88	20-01-89	Vill.- Habrubari P.O.- Dhaligaon Dist.-Bongaigaon, Assam.
22	Sri Manoj Das	Hiranmaoy Das	SC	01-09-68	01-11-86	30-04-87	Vill.- Bengali Basti P.O.- Rangapara Dist.-Sonitpur, Assam.
23	Sri Mrinal Das	Madhab Das	SC	01-03-67	03-05-86	31-12-87	C/O P.R. Sutradhar Vill.- Rangapara W/No-2 P.O.- Rangapara Dist.-Sonitpur, Assam.
24	Sri Sanjoy Kumar Narzary	Kalicharan Narzary	ST	01-02-68	03-05-86	13-12-87	Vill.- Chutiapara P.O.- Geruwa (Lalpul) Dist.-Darrang, Assam.
25	Sri Pankaj Barua	Bhuban Barua	UR	01-02-68	03-05-86	13-12-87	Vill.- Namanigaon P.O.- Thakurbari via Rangapa Dist.-Sonipur, Assam.
26	Sri Ajit Kuma Sarania	Prabin Ch. Sarania	ST	21-11-67	15-03-86	31-12-86	Vill.- Madhabdevnagar P.O.- Gotanagar, Ghy-33 Dist.-Kamrup, Assam.
27	Sri Sunil Ch. Boro	Khargeswar Boro	ST	01-03-68	03-05-86	31-12-87	Vill.- Singimari P.O.- Khoirabari Dist.-Darrang, Assam.
28	Sri Bipin Ch. Boro	Kula Ram Boro	ST	17-03-68	01-03-86	15-10-88	C/O Hareswar Boro New Colony Rly Qr. No.223 P.O.- Rangapara Dist.-Sonitpur, Assam.

29	Sri Napolion Lahary	Subiram Lahary	ST	02-03-68	03-05-86	31-12-87	Vill.- Jorpukhuri P.O.- Mezengjuli Dist.-Sonitpur, Assam.
30	Sri Rajen Daimary	Pawal Daimary	ST	03-03-68	02-04-86	31-12-87	Vill.- Bihmari P.O.- Bihmari Dist.-Sonitpur, Assam.
31	Sri Ansuma Swargiary	Nabin Swargiary	ST	03-01-68	02-04-86	31-12-87	Vill.- Jogamari P.O.- Nizdefeli Dist.-Nalbari, Assam.
32	Sri Suren Daimary	Budheswar Daimary	ST	03-11-68	02-04-87	31-12-87	Vill.- No.2 Balimara P.O.- Bedati Dist.-Sonitpur, Assam.
33	Sri Raju Borah	Lakhi Borah	UR	02-03-68	03-05-86	31-07-87	Vill.- Namanigaon P.O.- Tahkurbari via Rangapara Dist.-Sonitpur, Assam.
34	Sri Pradip Das	Late Prafulla Ch. Das	SC	01-11-67	13-03-86	31-12-86	C/o Subhash Das (Panshop) Near Police Station (Rangapara) P.O.- Rangapara Dist.-Sonitpur, Assam.
35	Sri Robin Daimary	Bhuban Daimary	ST	12-05-68	03-11-86	31-12-88	Vill.- Balahati (Chutipara) P.O.- Gurmow Dist.-Kamrup, Assam.
36	Sri Pradip Boro	Late Raja Ram Boro	ST	17-03-86	03-05-87	31-12-88	Vill.- Uttar Murmela P.O.- Murmela Dist.-Darrang, Assam.
37	Sri Chandan Debnath	Jyotish Debnath	OBC	16-12-68	03-02-87	20-07-88	Vill.- Titaguri P.O.- Kokrajhar Dist.-Kokrajhar, Assam.
38	Sri Kamaleswar Narzary	Seba Ram Narzary	ST	15-11-68	03-02-87	20-07-88	Vill.- Padumpukhuri P.O.- Janata Dist.-Sonitpur, Assam.
39	Sri Phukan Boro	Kati Ram Boro	ST	02-10-68	02-04-87	31-12-87	Vill.- Dindangpara P.O.- Khoirabari Dist.-Darrang, Assam.

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✓ 40	Sri Krishna Ram Boro	Lakhi Ram Boro	ST	05-03-68	01-03-87	31-12-88	Vill.- Teteliguri W/No.-1 P.O.- Rangia (Rly. Station) Dist.-Kamrup, Assam.
✓ 41	Sri Ratneswar Boro	Tekera Boro	ST	13-03-68	03-05-87	31-12-88	Vill.- Doloigaon P.O.- Tarani via Rangia Dist.-Kamrup, Assam.

ANNEXURE-2

-38F-

L. E. Ballen.

OFFICE OF THE
DIV. A.D. MANAGER(P),
ALIPURDUAR JUNG.

DATE: 13/02/95.

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

To
GM/CON/MLD.

Subj- Special recruitment drive of SC/ST candidates.

Ref:- GM(P)/MLG's letter No.E/227/Resv./Spl./94/Clear -
IV dated 1.7.93.

In order to clear the backlog of SC/ST in group "D" recruitment categories in terms of GM(P)/MLG's letter number quoted above, a special recruitment drive is under process. Due to non availability of ST candidates amongst the existing casual labours in combined seniority list in this Division a list of SC/ST ex-Casual labour of open line and construction organisation has been submitted by the Divl. Secy. ALSCTRP/AMJ. In the said list names of 56 Nos. (ST) construction ex-Casual labour have been shown.

To ensure the genuineness of above 56 construction ex-Casual labour(ST), please furnish the following particulars of those 56 ST Casual labour so as to enable this Division to screen them against the ST backlog of this Division.

1. Date of birth.
2. Date of engagement as casual labour.
3. Date of discharge.
4. Number of days worked.
5. Last working place & under whom worked.
6. Whether SC/ST.
7. Whether GM's approval was obtained if engaged after 1.1.81.

Please treat this is most urgent.

DA/One

for Divl. A.D. Manager(P),
Alipurduar Jung.

Copy forwarded for information:- 1. Divl. Secy./ALSCTRP/AMJ.
APDJ - This has ref. to his letter No. ALSCTRP/AMJ/141/94/3r.
DPO dt. 27.10.94 & 21.11.94.

(hcmx/2/95)

for Divl. A.D. Manager(P)/AMJ.

Attes.

Advocate.

Attended
Di
Advocate

N.F. Railway.

Office of the
General Manager/Con
Maligaon.

No. E/57/CON/(80/ST)

Dated. 24.4.95.

DRM(P)/APDJ

Sub:- Special recruitment drive of 80/ST
candidates.

Ref:- Your letter No. E/227/MSV/(B)AP dt. 13.2.95.

Regarding casual service of 56 Nos. ex-Casual Labour(ST) have been verified with the seniority list furnished by XEN/BO/CON/BNGN. But the names of these CUs are not found there.

XEN/BO/CON/BNGN office was wound up in 1987. However, remark was asked from the present custodian of this closing Unit to ensure the genuineness of casual service if rendered under XEN/BO/CON/BNGN.

Dy OE/CON/JFZ vide his letter No. E/227/CON/JFZ Pt. II dated 27.3.95 (copy enclosed) has sent only some lists of selected candidates from old record regarding engagement in casual service and in those lists names of above ex-casual labours are appearing except Shri Naren Ch. Boro son of Phaniram Boro and Ratan Ch. Boro son of Jamuna Boro (list enclosed).

In the list of 56 serial namely 55 and 56 are duplicate to 13 and 12 respectively.

This is for your information and necessary action please.

DD. As above

(O. Saikia)

SPO/CON/MLG

for General Manager/Con

Copy forwarded for kind information & necessary action to GM(P)/Maligaon.

[Signature]
24/4
for General Manager/Con
N.F. Railway, Maligaon.

S/C

Attested.

[Signature]

Advocate

40-
N.F. RAILWAY.

ANNEXURE - 4 49

Office of the
General Manager (CON)
Maligann.

NO: E/57/CON(SO/ST)

Dated 4-8-95

To
DIRM(P)/APDJ

Sub: Special recruitment drive
of SO/ST Candidates.

Ref: Your letter No. E/227/Resv(E)
AP dt. 19.6.95.

In reference to your letter dated 19.6.95
on the above subject the full service particulars
of 46 Ex-Casual Labour (ST) under XEN/BO/CON/
BNGN is furnished in the enclosed statement as
per prescribed proforma for further disposal
at your end. Regarding GM's approval the cases
are under scrutiny.

Further, working period of Shri Moni Ram
Boro son of Late Umesh Oh. Boro is under verifi-
cation and will be sent separately.

DA: One Statement

(B. DEVCUPTA)
SFO(CON)
FOR GENERAL MANAGER(CON)

Copy forwarded for information and necessary
action to :

1. GM(P)/MLQ with One Statement.

2. DY. GE/CON/JPZ in reference to his
letter No. E/255/CON/JPZ dated 17.7.95.

(B. DEVCUPTA)
SFO(CON)
FOR GENERAL MANAGER(CON)

A tested.

Advocate.

Attended
Advocate

N. F. Railway.

Office of the
Divisional Railway Manager (P),
Alipurduar Junction.

August 8, 1995.

To

GM/CON/Maligaon

(for personal attention of Shri B.Devgupta, SFO/CON)

Sub : Special recruitment drive of SC/ST candidates.

Ref : Your letter No.E/57/CON(SC/ST) dt. 4.2.95.

In your letter under reference, you have mentioned that GM's approval of the cases are under your scrutiny.

Since nothing can be done for screening of the staff engaged in the Railway service on or after 1.1.81 without GM's personal approval, you are requested to kindly communicate GM's personal approval in favour of all the candidates shown in your list who were engaged on or after 1.1.81 and also send a copy of such approval to this office for office record. A very early action in the matter is requested.

for Divisional Railway Manager (P),
Alipurduar Junction.

Copy to GM(P)/Maligaon for information please. This refers to GM/CON/Maligaon's letter under reference addressed to DRM(P)/APDJ with a copy to him and others.

for Divil. Railway Manager (P),
Alipurduar Junction.

Attested.

Advocate.

ANNEXURE - 6

DATE OF DEATH: 11th day of January, 1900.

Hon'ble Shri G. K. Ganguly, Administrative Member.

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

By Advocate Mr. S. Sarma.

1. Union of India,
represented by the General Manager,
N.F.Railway,
Maligaon, Guwahati-11.

3. The General Manager (Construction),
N.F.Railway, Maligaon,
Guwahati-11

None appears on behalf of the respondents.

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.

Contd...

Attended
Dir
Advocate

-43-

47

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

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

R

Contd...

- 44 -

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,

Contd...

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

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

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

Sd/VICE CHAIRMAN

Sd/MEMBER (Adm)

trd

Dated: 21/04/2000

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

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

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

Sl. No.	Name	Father's name.	Under whom worked.	Date of birth.	Date of first engagement.	Total days.	Whe-ther SC/ST/OBC.	Educational qualification.
1.	Ganesh Narjinary	D. Narjinary	GM/CON/MLG	20.11.65	1.5.84	975	ST	VIII passed.
2.	Keshab Ch. Boro	Kamala Kanta Boro	-do-	23.9.66	5.8.84	879	ST	VIII passed.
3.	Bhubaneswar Boro	Janaki Boro	-do-	13.3.65	27.3.84	847	ST	IX passed.
4.	Amir Boro	Lt. Lati Ram Boro	-do-	3.1.66	27.3.84	817	ST	X passed.
5.	Prady Kherkatary	N. Kharkatary	-do-	5.2.66	27.3.84	817	ST	IX passed.
6.	Moriram Swargiary	Lt. J. Swargiary	-do-	31.3.66	27.3.84	817	ST	IX passed.
7.	Pratin Ch. Kalita	Lt. Jogeswar Kalita	SEN/FCW/MLG	31.12.59	10.6.82	724	UR	X passed.
8.	Ananda Ramchiary	Lt. M. Ramchiary	GM/CON/MLG	21.3.66	20.6.84	680	ST	IX passed.
9.	Hareswar Boro	Jeo Jaram Boro	-do-	16.7.66	20.9.84	680	ST	IX passed.
10.	Rupan Ch. Brahma	Dhapan Brahma	-do-	1.2.66	1.5.84	610	ST	IX passed.
11.	Hari Chandra Boro	Nepat Boro	-do-	3.5.67	1.5.85	610	ST	VIII passed.
12.	Arabinda Boro (I)	Dhandra Boro	-do-	1.4.67	1.5.85	610	ST	IX passed.
13.	Dwipen Boro	Hari Chandra Boro	-do-	27.5.66	1.8.84	590	ST	IX passed.
14.	Jadav Swargiary	Powl Swargiary	-do-	27.3.66	1.7.84	588	ST	IX passed.
15.	Khagendra Nath Boro	Belaram Boro	-do-	1.3.66	1.5.86	455	ST	IX passed.
16.	Jogen Boro	Khaniram Boro	-do-	20.10.65	1.8.84	518	ST	X passed.
17.	Mrinal Chakraborty	Lt. Khagendra Chakraborty	SEN/FCW/MLG	1.1.63	19.7.84	408	UR	S.F. passed.
18.	Tapen Seal	Amritlal Seal	-do-	3.8.60	22.7.78	404	UR	S.F. Failed.
19.	Pradip Kr. Boro	Nabin Boro	GM/CON/MLG	1.10.66	13.6.85	322	ST	IX passed.
20.	Ranjit Brahma	Lt. N. Brahma	-do-	1.10.66	13.6.85	322	ST	IX passed.
21.	Arvind Ch. Boro (II)	Waren Ch. Boro	-do-	20.5.67	13.6.85	322	ST	X passed.
22.	Phukan Basumatary	Maheswar Basumatary	-do-	23.6.67	13.6.85	322	ST	VIII passed.
23.	Bimal K. Basumatary	Girish Kr. Basumatary	-do-	2.4.67	13.6.85	321	ST	IX passed.

(contd... 2..)

Attested
Advocate

s/shri,

24. Ashok Ramchary	Lt. M. Ram Basumatary	GM/CON/MLG	11.3.67	1.11.85	304	ST	IX passed.
25. Bhabit Boro	Patk Boro	-do-	30.9.67	1.11.85	394	ST	VIII passed.
26. Damahuram Deka	Bhekularam Deka	-do-	27.3.67	1.8.04	275	ST	IX passed.
27. Kamaleswar Boro	B.R. Boro	-do-	1.1.63	1.4.85	275	ST	IX passed.
28. Anil Kr. Yadav	J.P. Yadav	SEN/FCW/MLG	15.2.67	10.6.85	261	OBC	VIII passed.
29. Uttam Ch. Boro	Baliram Boro	GM/CON/MLG	2.1.68	1.5.86	249	ST	-do-
30. Karuna Kanta Swargiary	Katiram Swargiary	-do-	1.3.66	10.4.86	243	ST	-do-
31. Samala Boro	Lt. Mangla Boro	-do-	15.6.66	1.1.85	239	ST	-do-
32. Hari Chandra Boro	Lt. Umesh Boro	-do-	3.2.66	1.5.84	214	ST	-do-
33. Manoswar Swargiary	Lt. D.R. Swargiary	-do-	1.3.65	1.5.85	214	ST	-do-
34. Manoswar Swargiary	Ratan Swargiary	-do-	30.5.67	1.6.85	214	ST	-do-
35. Rukmal Basumatary	B. Basumatary	-do-	1.1.67	1.8.85	212	ST	-do-
36. Anur Boro	Lt. Siren Boro	-do-	1.3.67	1.1.85	184	ST	IX passed.
37. Heramba Kr. Daimary	Phisala Daimary	-do-	1.3.67	1.6.85	184	ST	-do-
38. Ratiram Boro	Lt. Jogendra Boro	-do-	31.1.66	1.4.84	183	ST	-do-
39. Rajendra Daimary	Donda Daimary	-do-	30.11.65	1.5.84	153	ST	VIII passed.
40. Golak Ch. Boro	Dabar Boro	-do-	3.2.65	1.4.84	153	ST	-do-
41. Subhas Boro	Anaram Boro	-do-	17.2.66	1.4.84	153	ST	IX passed.
42. Moniram Boro	Lt. Umesh Ch. Boro	-do-	21.3.66	1.8.85	153	ST	-do-
43. Krishna Basumatary	Goni Basumatary	-do-	7.1.67	1.11.85	151	ST	-do-
44. Narayan Basumatary	Rajendra Basumatary	-do-	1.3.65	1.4.85	141	ST	-do-
45. Jitendra Boro	D.R. Boro	-do-	1.2.65	1.5.84	123	ST	-do-
46. Sakul Ch. Boro	Moraram Boro	-do-	20.8.66	1.5.84	123	ST	-do-
47. Prafulla Swargiary	N.C. Swargiary	-do-	30.6.67	1.5.85	123	ST	-do-
48. Gajendra Nath Boro	D.N. Boro	-do-	2.1.60	1.5.79	121	ST	S.F. Passed.
49. Paresh Boro	Anaram Boro	-do-	20.9.67	1.12.85	121	ST	IX passed.

Copy forwarded for information & necessary action to :-

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

(sdas/214Y2K)

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

Dated: 25/5/09

To,

(1) The General Manager (Con)
N.F. Railway, Maligaon,
Guwahati.

(2) The Divisional Railway Manager (p)
Alipurduwar Division, N.F. Railway,
Alipurduwar.

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

Sir,

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

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

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

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

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

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

Attested
by
Advocate

Attested
by
Advocate

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

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

Thanking you.

Yours faithfully,
Sd/-
Suren Ramchiary

Attested
was
Advocate

Attested
was
Advocate

-51-

REGISTERED WITH A/DN. E. RAILWAYOffice of the
General Manager/Con
Maligaon: Guwahati-11

Dated: 18.03.2004

No. F/63/Con/1

To

Shri M/line Boro/o. Sri Upendra Ch. Borowell - Antingpan (T. Boro)P.O. - Marmela, Dist. Darrang (Assam)Sub: Hon'ble CAT/GHY's Order in O.A.No. 257/03Ref: Your application dated 17.1.03

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

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

Please acknowledge the receipt of the same.

1. DISPATCHED

2. REPLY

3. DATE

(P. G. Johnson)

APO/Con

For General Manager/Con

Attested
By
Advocate

Office of the
General Manager (P)
Maligaon, Guwahati

Dated: 17-03-2004.

ANNEXURE-11

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

To
CE/CON-II/MLGSub: Regularisation of a Group of casual Labourers in APDJ
division (under Construction)

A MR reference case regarding regularization of a group of Casual Labourers in APDJ division (under Construction) as forwarded vide Railway Board's letter No. 2003-E(SCT)II/5/25 dated: 21-01-2004 alongwith letter of Shri Madhab Rajbongshi, MP Lok Sabha, representation of SC/ST Association/RPAN and copies of CAT/GHY's judgement dated: 01-05-2003 in O.A. 43/2002 and 44/2002 is forwarded herewith for your examination please. It is further added that target date of implementation of CAT/GHY's judgement is already over and it is learnt that some more time is being sought from CAT/GHY. Copy of the letter No. E/211/DOP/DPGMR dated: 05-03-2004 in this regard received from APDJ division is enclosed for ready reference.

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

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

Parimal

H. S. Paul

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

Attended
Advocate

(ii)

V. (ii) The Casual Labour Service Cards of the applicant and same are seen to be in order. The same are submitted about the genuineness, since his name is not in the list of casual labourers available in this office.

(iii)

(iii) The same are found in the C.L. card form of the applicant.

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Annexure-12

9

Northeast Frontier Railway.

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

No.E/63/Con/1
To

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

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

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

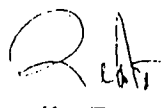
With reference to the above it is to informed that on getting the CATs direction in OA No.43/2002 and 44/2002, individual applicants were asked to submit documents/casual labour cards in support of their claim of having worked in the Railway. Accordingly, the applicants furnished/submitted aforesaid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

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

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

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

This is for your disposal please.


(Sanjiv Roy) 25/3
Chief Engineer/Con/II
For General Manager/Con

de

RECEIVED
25/3/2004
25/3/2004

Attended
Dr.
Advocate

R.F. Railway

CE/C/2-547
APC
811

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

ANNEXURE - 13

Dated: 30/03/2004

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

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

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

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

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

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

This is for your information please.

(A. K. Mukherjee)

A.P.O./II

for DIVL. RLY. MANAGER(P),
ALIPURDUAR JUNCTION.

Copy for information and necessary action to :-

- 1) G.M./CON/Maligaon. (2) A.P.O./Local Cell/MLG.
- 3) C.L.A./AFED.

(aduo/30304)

for DIVL. RLY. MANAGER(P),
ALIPURDUAR JUNCTION.

Attended
Advocate

-155-

DTCC/CON/JPZ
File No. MISC/1/
(BBE)

Amesave 14

N.E. RAILWAY.

Office of the
Deputy Chief Engineer/Con,
NMX-JPZ New BG Line Project,
Jogighopa.

Dated: 16-03-2004.

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

To,

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

Sub: Verification of documents/records.

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

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

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

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

Hence no comments regarding genuineness.

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

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

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

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

Attended
Dr.
Advocate

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

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

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

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

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

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

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

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

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

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

Dy. Chief Engineer (Con),
N.E. Railway, Joghopa.
(202 X 05005 447 64 40 04 2 3)

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.

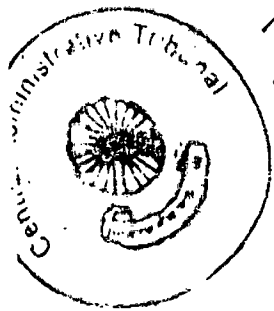
1. Sri Hanil Boro
2. Sri Haran Das
3. Sri Kishor Kumar Mandal
4. Sri Biren Boro
5. Sri Maina Boro
6. Sri Kripa Tewary
7. Sri Pradip Sarma
8. Sri Paneswar Boro
9. Sri Nagendra Boro
10. Sri Anil Kalita
11. Sri Bhagi Ram Basumatary

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

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

1. Shri Saren Ramchary
2. Sri Ratan Boro
3. Sri Mizang Brohma
4. Sri Rajit Brahma
5. Sri Jaidev Swargiary
6. Sri Naren Ch. Basumatary
7. Sri Raj Kumar Mandal
8. Sri Biren Baishya
9. Sri Angut Das
10. Sri Radue Shyam Mandal
11. Sri Murali Narzary
12. Sri Swargo Boro
13. Sri Hanish Ch. Boro
14. Sri Biren Baishya

Attended
By
Advocate



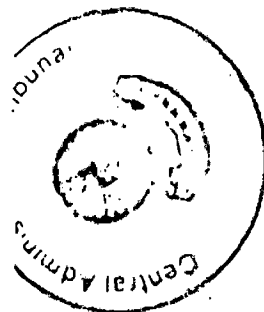
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- *15. Sri Jogendra Pasi
- *16. Sri Ramjit Das
- 17. Sri Naren Ch. Boro

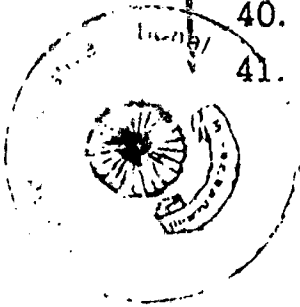
All ex-casual labourers in the Alipurduar
Division, N.F. Railway.

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

1. Sri Dhaneswar Raheng
2. Sri Lohit 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 Pradi Kr. Boro
12. Sri Upen Narzary
13. Sri Tarun Ch. Boro
14. Sri Ramesh Ch. Ramchairy
15. Sri Monoranjan Deori
16. Sri Ram Nath Pathal
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 Neelam Lahary
30. Sri Rajen Lahary
31. Sri Ansunu Swargiary



32. Sri Surendra Lalmar,
33. Sri Raju Borah
34. Sri Pradip Das
35. Sri Robin Dwaimary
36. Sri Pradip Boro
37. Sri Chandan Dev Nath
38. Sri Kamuleswar Boro
39. Sri Phukan Boro
40. Sri Krishna Ram Boro
41. Sri Ratneswar Boro



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

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

By Advocate Ms. U. Das.

- Versus -

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

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

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

.....

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ORDER (ORAL)

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SIVARAJAN, L.(V.C.):

Excepting the fact that the applicants in these three O.As 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.As vide orders dated 25.8.2003, 1.5.2003 and 1.5.2003 respectively (Annexure-5 in O.A.336/2004, Annexure-1C 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.As.

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

[Signature]

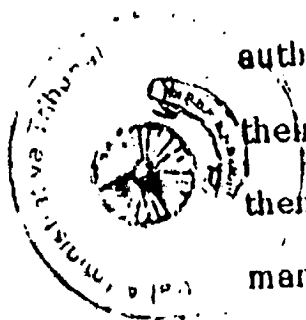
3. We have heard Ms. U. Das, learned counsel for the applicants and Dr. M. C. Sharma, learned Railway counsel for the respondents. Ms. U. Das has submitted that all the applicants were in fact engaged as casual labourers before 1981 and that there is clear evidence with the respondents in regard to the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

4. Dr. M. C. Sharma, Railway counsel has relied on various averments made in the written statement and submits that the applicants have never attempted to establish their claim for availing the benefits under the scheme in the BQ'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

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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 to 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

18/3/04

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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 their 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 5.1.1979 issued by the Executive Engineer/ECG/CON, N.F. Railway, Bongaigaon to the Deputy Chief Engineer/COFF, N.F. Railway, Jogighopa. It is stated therein that 463 surplus extra-actual 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 make such bald statements.

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

"In the written statement the respondents however admitted that one ex casual labour namely, Sri Habul son of Ruplal was screened thereby indicating that the applicant was screened but he could not be absorbed for want of vacancy within the panel period."

[Signature]

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

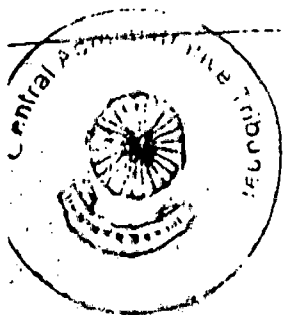
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before the authorities, in the above circumstances, was repelled. The said decision is not applicable in the instant case for the reason that there are necessary averments in the representation filed by the applicants and necessary materials are also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



TRUE COPY
प्रतिलिपि

11/8/05
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी-4
GUWAHATI-5.

-68-

ANNEXURE - 16

N.F.RAILWAY

REGISTERED WITH A/D

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

Dated: 10-02-2006

No.E/63/CON/I/Loose

ORDER

WHEREAS, in the year 1987, Railway Board vide letter No.E(NG)II/28/CL/2 dated 4.3.1987 provided the opportunity to call ex-casual labourers engaged with the NF Railway for enlistment of their names in the Supplementary / Live Casual Labour Register. For the aforesaid purpose all the Ex-casual labourers were asked to submit application within 31.3.1987, so that their cases can be examined and considered by the Administration.

WHEREAS, in the year 1998 Railway Board launched a special drive vide Board's letter No.(NG)II/98/CL/32 dated 9.10.1998 for regularization of all the Ex.casual Labourers borne on live/Supplementary Register against regular vacancies. As a result of the aforesaid special drive all the Ex-casual labourers were regularized.

WHEREAS, in the case of Sri **Bipin Ch. Boro** it was found that there is no evidence, whatsoever, to show that Sri **Bipin Ch. Boro** as during the relevant period of time, i.e 01.3.86 to 15.10.88 was engaged with the Railways as casual labour & consequently, the party never represented also before the Railway administration.

WHEREAS, it was only in the year 2002 that Sri **Bipin Ch. Boro** alongwith other applicants filed OA No.43/02 before the Guwahati Bench of the Central Administrative Tribunal. The OA No.43/02 was disposed of by the Tribunal vide order dated 01.5.2003 with direction that the applicants may submit individual representation to the Railways within one month from the date of the order.

WHEREAS, pursuant to the aforesaid order of the Tribunal Sri **Bipin Ch. Boro** submitted an application dated 28.3.04. For General Manager/Con, the APO/CON by letter dated 18.3.2004 informed Sri **Bipin Ch. Boro** that the relevant records regarding his claim of being Ex-casual labour were looked into and it was found that the genuineness of his casual labour card was not established and therefore, your claims for re-engagement is rejected.

WHEREAS, subsequently alongwith 40 other applicants Sri **Bipin Ch. Boro** preferred OA No.338/2004 before the Guwahati Bench of the Central Administrative Tribunal seeking absorption with Railways in Group-D post. The Tribunal disposed of

Attended
Bri
Advocate

(1) / 1-1-03

the Original Application by its common order dated 19th July, 2005. The operative portion of the order is quoted hereinbelow:-

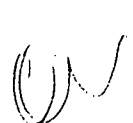
".....The respondents are directed to consider the case of the applicants ignoring the identity card and based on their own records, viz., the Xerox copy of the Casual Labour Live Register, the documents with reference to which the earlier written statements were filed and extracted hereinabove and to take a decision in the case.... Afresh within a period of four months from the date of receipt of this order".

WHEREAS, in compliance of the order of the Tribunal the matter was reconsidered and the case of Sri **Bipin Ch. Boro** was examined in detail. For the said purpose all the relevant records and materials were looked into and verified. As a result, certain shocking facts were noticed.

WHEREAS, the Casual Labour card of Sri **Bipin Ch. Boro** was shown to have been issued by P.K.Gupta as AEN/BG/CON/Bongaigaon. It is worthwhile to note that in the Identity Card the period of employment of Sri **Bipin Ch. Boro** is from **01.3.86 to 15.10.88**. However, during the aforesaid period Shri P.K.Gupta was never posted as AEN/BG/Con/Bongaigaon during tenure as AEN starting from 16.1.82 to 5.9.88. His signature as AEN/BG/CON/Bongaigaon during the relevant period is definitely not genuine. Moreover, the signature of Shri P.K.Gupta as available on official records does not tally with signatures on Casual Labour Cards purported to be signed by Shri P.K.Gupta.

WHEREAS, the records pertaining to the Live Register have also been examined. It is found that the purported Live Register of Casual Labourers was forwarded purportedly by late S.S.Ghosh as Executive Engineer/BG/CON/Bongaigaon by forwarding letter dated 5.1.89. However, the signature of late S.S.Ghosh on the aforesaid forwarding letter has been verified by other available records related to late S.S.Ghosh and there are strong reasons to believe that the signature of late S.S. Ghosh on the aforesaid forwarding letter are forged because the same do not tally with his signature on other available records, authenticity of which is doubtful. Therefore, the aforesaid forwarding letter and the Live Register of the Casual Labourers are fabricated documents and no reliance can be placed on the same.

Further, this may be noted that in accordance with the Railway Board's 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 absorption of all casual labour on roll and also whose names

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were kept in the live casual labour register and supplementary live casual 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 massive drive was launched by the Railway Administration to ensure whether any casual labour was borne on live register/supplementary live casual labour register, who was earlier at any time were engaged by Railway, and to consider their cases on merits. But as per available records in this office you did not make any representation at that time to any of the competent railway authority in regard to your claim as your name was actually not available on supplementary/casual labour live register. 74

WHEREAS, there is no other relevant authentic material available on record by which it can be held that Sri **Bipin Ch. Boro** was engaged as a casual labour with the railways at any point of time. There are reasons to believe that Sri **Bipin Ch. Boro** without having been engaged as casual labourer with the Railways at any point of time, with the connivance of certain persons indulged in fabrication and forgery of records and thereafter belatedly made an attempt in the year 2002 to get a permanent job in the Railways.

For the aforesaid reasons, the case of Sri **Bipin Ch. Boro** for absorption in the Railways cannot be entertained and the same is hereby rejected.

(A. Saikia)

Dy.Chief Personnel Officer/Con
N.F.Railway,Maligaon,Guwahati-11
For General Manager/Con

To
Shri **Bipin Ch. Boro**,
C/o Hareswar Boro
New Colony,
Rly.Qrs.No.223/B,
P.O. Rangapara
Dist: Sonitpur(Assam).

N.F. - 574
N.F. - correct

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)

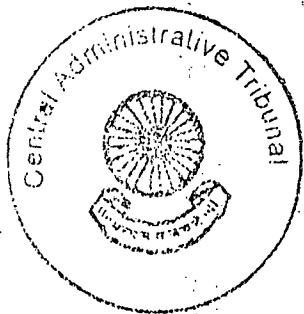
THE HON'BLE SHRI K.V. SACHIDANANDAN, VICE CHAIRMAN (J)

1. Sri Habul Ghosh ✓
2. Sri Haren Das ✓
3. Sri Kishor Kumar Mandal ✓
4. Sri Biren Boro ✓
5. Sri Maina Boro ✓
6. Sri Krupa 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 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 Narèn Ch. Basumatary ✓
7. Sri Raj Kuinar 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 ✓

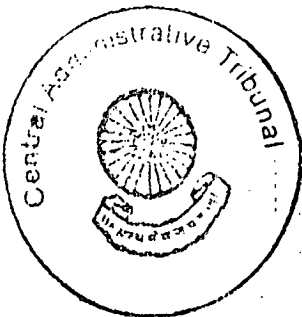


Attested
By
Advocate

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

31. Sri Ansumma 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.

Shri Arjun Rakshit,
Divisional Railway Manager,
Alipurduar Division, N.F.Railway,
Alipurduar, West Bengal.

.....Contemners/ Respondents
in all the petitions.

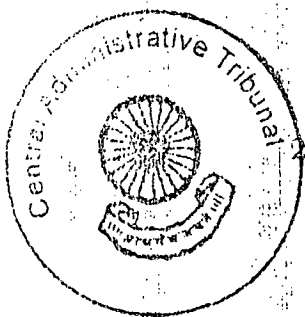
ORDER

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/contemners had acted in a



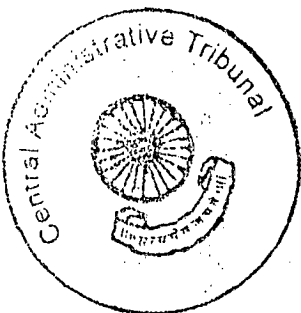
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contemptuous manner in implementation of our order dated 19.7.2005 passed in O.A.337 of 2004. It is also the allegation that the respondents had acted willfully and their inactivity deserves appropriate action under the Contempt of Courts Act 1971.

4. The respondents have filed a detailed show cause reply dated 7.2.06 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/I/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 :



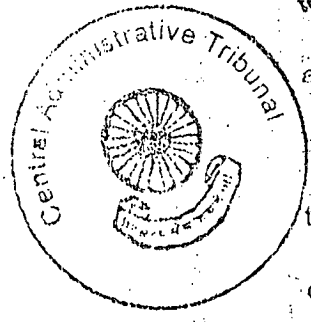
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"As already noted, the only reason for rejecting the claim of the applicants is that the casual labour identity cards produced by the applicants the genuineness of which is doubtful. In the circumstances, as already discussed, the respondents are directed 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."

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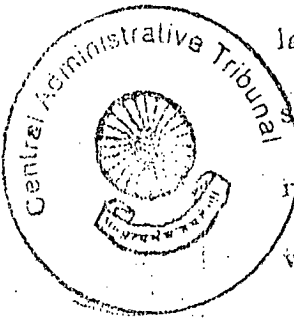
From above it is clear that the respondents were directed to consider the case of the applicant based on their own records i.e. the xerox copies of the casual labour live register, the documents based on which the earlier written statements were filed and to take a decision in the case of the applicants 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

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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

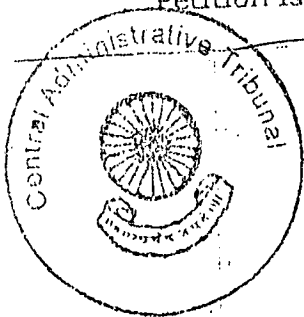


court in this contempt proceeding and therefore not much benefit can be derived by the petitioner in this regard.

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 (J)

Sd/ VICE CHAIRMAN (A)



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प्रतिनिधि

अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी
GUW
गुवाहाटी कानून 11-5

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