FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

104

O R D E R S H E E T

1. Original Application No: _____ /2009

2. Mise Petition No _____ /

3. Contempt Petition No 6 /2009 in OA 262/2006.

4. Review Application No _____ /

Applicant(S) Sri Suren Ramchiari & ors.

Respondant(S) Sri Ashotosh Swami & ors.

Advocate for the Applicant(S): Mrs. B. Devi
Mr. G. Goswami

Advocate for the Respondant(S): 6

Notes of the Registri	Date	Order of the Tribunal
1.7.2009 This Contempt Petition has been filed by the Applicants through their Advocate under Rule 17 of the Administrative Tribunal Act, 1985 for drawal of Contempt Proceeding against the contemners for their willful and deliberate violation of the Judgment and order dated 14.6.07 passed in OA 262/06. Laid before the Hon'ble Court for favour of orders 1.7.09 Deputy Registrar 1/7/09		P.T.O.

C.P. No. 06/2009 (O.A. No. 262/2006)

02.07.2009 Non-compliance of the common order dated 14.06.2007 of this Tribunal (rendered in O.A.Nos.281/2005, 261/2006, 262/2006 and 263/2006) is the subject matter of grievance raised in the present C.P. Nos.05, 06 and 07 of 2009. It appears the aforesaid common order dated 14.06.2007 of this Tribunal was the subject matter of consideration/scrutiny before the Division Bench of of the Hon'ble Gauhati High Court in W.P. (C) No.6157 of 2007; which was dismissed on 05.11.2008.

It is stated by Mrs B. Devi, learned Counsel for the Applicants that the direction of this Tribunal (to examine the case of the Applicants by a newly constituted Committee) having not been complied with, the Applicants have approached this Tribunal with the present Contempt Petitions. Copies of the C.P. Nos. 05/2009, 06/2009 and 07/2009 have already been served on Dr J.L. Sarkar, learned Standing Counsel for the Railways; who is hereby directed to obtain instructions in the matter.

Call this matter on 19.08.2009 awaiting instructions from the Opposite Parties through Dr J.L. Sarkar.

Send copies of this order to the Opposite Parties (alongwith copies of the Contempt Petitions) by Regd. Post.

Free copies of this order be also handed over to Mrs B. Devi, learned Counsel for the Applicants and to Dr J.L. Sarkar, learned Standing Counsel for the Railways.

(M.R. Mohanty)
Vice-Chairman

nkm

IDS

This case is received on 20.7.09.

K. Das

Send copies of this order to the opposite parties (alongwith copies of the contempt petitions) by Regd. Post.

20/7/2009

Received copy
21/7/09
For Dr. J.L Sarkar.

Copies of notices along with order dated 2/7/09 send to D/Sec. for issuing to respondents by regd. A/D post.

Free copies of this order handed over to counsel for both the parties.

D/d 20/7/09. D/- 20.7.09

Notes of the Registry	Date	Order of the Tribunal
17.8.2009 Affidavit in reply has been filed by the Respondents through their Standing Counsel Dr. J.L. Sarkar. Copy Served. Annexure-R1 is not legible. 17/8/09	19.08.2009	In this case a written reply has been filed by the Respondents on 17.8.2009; after serving a copy thereof on the Applicant's Advocates. On behalf of the Respondent No.1, a Misc.Petition has been filed to drop this Contempt Petition as against the said Respondent No.1. A copy of the said M.P. (which is yet to be registered) has already been served on the counsel for the Applicant. On the prayer of learned counsel for the Applicant, call this matter on 21st August 2009 (M.K.Chaturvedi) Member(A) (M.R.Mohanty) Vice-Chairman /lm/
Affidavit filed by the respondents. 9.9.09	21.08.2009	Call this matter on 10.09.2009. (M.K.Chaturvedi) Member(A) (M.R.Mohanty) Vice-Chairman lm
Affidavit filed by the respondents. 23.10.09	10.09.2009	On the prayer of counsel for both the parties, call this matter on 26.10.2009. (M.K.Chaturvedi) Member (A) (M.R.Mohanty) Vice-Chairman /PB/

C.P.No. 06/2009 (in O.A.No. 282/06)

-4-

26.10.2009 Dr J.L. Sarkar, learned counsel for the respondents, states that as undertaken vide para 3 of the affidavit dated 14.08.2009, proceedings of the committee had been carried out. But no final report has either been placed on record or communicated to the applicant submits Ms B. Devi, learned counsel for the applicant in this C.P. Granting further time to the respondents to place on record the proceedings of the dates mentioned in the aforesaid affidavit, the case is adjourned for two weeks.

Affidavit filed by the respondents.

11.11.09

List on 12.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

12.11.2009 Heard counsel for the parties. Hearing concluded.

For the reasons recorded separately the C.P. is dismissed.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

C.P. No.5 of 2009 in O.A. No. 261 of 2006
C.P. No.6 of 2009 in O.A. No. 262 of 2006
C.P. No.7 of 2009 in O.A. No. 263 of 2006

DATE OF DECISION : THIS IS THE 12th OF NOVEMBER, 2009

HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE MR. MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

C.P. No.5 of 2009 in O.A. No. 261 of 2006

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

All are ex-casual labourers working under the respondents.

... Petitioners

By Advocate : Mr G.Goswami & Mrs B. Devi

-Versus-

1. Sri Ashotosh Swami
The General Manager
N.F. Railway, Maligaon
Guwahati – 781011.

2. Sri Shiv Kumar
The General Manager (Construction)
N.F. Railway, Maligaon
Guwahati – 781011.

3. Sri Anand Kishore Jha
The Divisional Railway Manager (P)
Alipurduar Division, N.F. Railway

109

Alipurduar – 736123.

...Contemners

By Advocate : Dr J.L.Sarkar

C.P. No.6 of 2009 in O.A. No. 262 of 2006

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

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

...Petitioners

-Versus-

1. Sri Ashotosh Swami
   The General Manager
   N.F. Railway, Maligaon
   Guwahati – 781011.

2. Sri Shiv Kumar
   The General Manager (Construction)
   N.F. Railway, Maligaon
   Guwahati – 781011.

3. Sri Anand Kishore Jha
   The Divisional Railway Manager (P)
   Alipurduar Division, N.F. Railway
   Alipurduar – 736123.

...Contemners

By Advocate : Dr J.L. Sarkar, Railway standing counsel

110

C.P. No.7 of 2009 in O.A. No. 263 of 2006

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

By Advocate : Mr G.Goswami & Mrs B. Devi

-Versus-

1. Sri Ashotosh Swami
The General Manager
N.F. Railway, Maligaon
Guwahati – 781011.

2. Sri Shiv Kumar
The General Manager (Construction)
N.F. Railway, Maligaon
Guwahati – 781011.

3. Sri Anand Kishore Jha
The Divisional Railway Manager (P)
Alipurduar Division, N.F. Railway
Alipurduar – 736123.

...Contemners

By Advocate : Dr J.L.Sarkar, Railway Standing counsel.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER(J)

Alleging willful disobedience of the common order dated 14.6.2007 passed in O.A.261, 262 & 263 of 2006 present Contempt Petitions No.5, 6, & 7 of 2009 have been preferred by the applicants of O.A.261, 262 & 263 of 2006. Thus it would be expedient to notice direction issued to the respondents, which reads as under :

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

1. Sri Ashotosh Swami
The General Manager
N.F. Railway, Maligaon
Guwahati – 781011.

2. Sri Shiv Kumar
The General Manager (Construction)
N.F. Railway, Maligaon
Guwahati – 781011.

3. Sri Anand Kishore Jha
The Divisional Railway Manager (P)
Alipurduar Division, N.F. Railway
Alipurduar – 736123.

...Contemners

By Advocate : Dr J.L.Sarkar, Railway Standing counsel.

ORDER (ORAL)

MUKESH KUMAR GUPTA, MEMBER(J)

Alleging willful disobedience of the common order dated 14.6.2007 passed in O.A.261, 262 & 263 of 2006 present Contempt Petitions No.5, 6, & 7 of 2009 have been preferred by the applicants of O.A.261, 262 & 263 of 2006. Thus it would be expedient to notice direction issued to the respondents, which reads as under :

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

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

(emphasis supplied)

We may note that the aforesaid common order passed is based on earlier judgment/order passed on 19.7.2005 in O.A.338/2004 and other connected matters.

2. The respondents had filed an affidavit opposing the claim made by the applicants in C.P. stating that the matter relates to very old period and there are large number of applicants. On legal advice received sincere efforts have been made by the respondents to search, complied and examined as well as to obtain factual position. For doing justice, a Committee of 3 Members had been constituted including officers from Engineering and Personnel Branches of the Railways and vide letter dated 24.7.09 dates of hearing had been fixed as 17th, 18th and 19th August 2009 and 20.8.09. Vide reply para 4 respondents have further stated that there has been some delay in constituting the committee for scrutinizing the cases. Later on Misc.Petition Nos.120, 121 & 122 of 2009 have been filed in these Contempt Petitions whereby a Commttee report dated 30.10.2009 has been placed on record, which carries the following conclusions. The relevant excerpts reads thus :

> "8. The candidates were asked to detail a few basic aspects of the nature of duties performed by them and under whom they were working. They were also advised to produce the available documents/records such as engagement letter, joining report, medical fitness certificate etc. to substantiate their claim of having engaged by the Railway authorities. None of the candidates could furnish satisfactory reply about their initial engagement, discharge and nature of job performed by them.
>
> Some of the candidates admitted that they were engaged by contractor and not by Railway

Authority. The committee have also scrutinized the available records produced by the candidates which are found to be not genuine.

Further there is no other relevant authentic material available on record by which it can be held that the applicants were engaged as casual labourer with the Railways at any point of time. There are reasons to believe that the applicants without having been engaged as casual labourer with the Railways at any point of time, with the connivance of certain persons made an attempt to get a permanent job in the Railways.

Considering the above facts, documents, provision of extant rule, etc. the committee is of the opinion that there is no ground/basis to consider their cases for their absorption in Railway service and the same is rejected."

(emphasis supplied)

Pursuant to aforesaid findings of the committee, individual applicants have been informed vide identical communication dated 30.10.09 stating that there is no substance in the inclaim as they had failed to furnish any documents/records establishing their cases that they were engaged by the Railways and not by the contractors. Thus, they had no legal claim to force regularization. The relevant portion of the communication reads as under :

"You could not furnish any document/record showing particulars of your engagement viz. engagement letter, joining report etc. and the nature of job performed by you.

The committee carefully examined all the relevant documents & statements and found that there is no ground/basis to engage you as Group D staff, as claimed by you, under the extant rules."

In the above backdrop, it was contended by Dr J.L.Sarkar, learned Standing counsel for the respondents that the validity and findings of the committee cannot be tested in present contempt proceedings.

3. We have heard the parties, perused the pleadings and other materials including the order dated 14.7.2007. Mr G.Goswami, learned counsel appearing for the applicants drawing our attention to common order dated 14.7.07 passed in O.A.338/2004 and other connected matters contended that this Tribunal had rejected the respondents contention the xerox copies produced by the applicants cannot be relied upon. It was further contended that the respondents were not justified to ignore the documents produced by the applicants particularly the xerox copies, original of which were maintained by the respondents. We have given our thoughtful and anxious consideration to the contentions raised and the plea advanced in support of their claim. On examination of the matter, particularly in the light of finding recorded by the Committee on 28.10.2009 as well as the individual communication dated 30.10.2009, as noted hereinabove, we are of the view that xerox copies produced by the applicant had not been the basis in recording the findings. Rather, it is admission of some of the candidates that they were engaged by the contractors and not by the Railways, which led to recording said findings and passing of aforesaid orders. Be that as it may, since the scope of contempt jurisdiction is limited and unless findings recorded by the Railways is utterly perverse, it cannot be examined by the judicial bodies in the contempt proceedings. We may also note that a specific observation has made by the committee that none of the candidates furnished satisfactory reply about their initial engagement, discharge and nature of job performed by them. Thus, we are of the considered view that validity of such reason cannot be made

the basis for initiating contempt proceedings. The direction issued by this Tribunal had been specific, namely to constitute a committee of responsible officers to examine their claim in specific. Said direction in our considered view, has been meticulously complied with. We may further note that personal hearing was also provided. In this view of the matter we are of the considered view no contempt has been established by the applicants, and therefore, C.Ps No. 5, 6 & 7 of 2009 are dismissed. Notices are discharged with. It is needless to mention here that in case the applicants are aggrieved by decision taken by the committee as well as communication addressed to them, based on such findings, they would be at liberty to agitate the same before the appropriate forum in terms of rules and law on said subject. Order accordingly.

Misc.Petitions No.82/09, 83/09 & 84/09 are also disposed of.

Sd/- M.K.Gupta
Member (J)
Sd/-M.K.Chaturvedi
Member (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

C.P. NO. 6 /2009

IN

O.A. No.262/06

Suren Ramchiari & ors.

-Vs-

Asotosh Swami & ors.

INDEX

Filed by

Bandana Devi

Advocate.

Filed by :
The Petitioners
Through
Bondana Devi
Advocate
30.6.09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.

C.P.No. 6 /09

In OA No.262/2006

Suren Ramchiari and Ors.

-vs-

Union of India & Ors.

IN THE MATTER OF:

An application under Rule 17 of the Administrative Tribunal Act, 1985 for drawal of Contempt Proceeding against the Contemners for their willful and deliberate violation of the judgment and order dated 14.6.07 passed in OA No. 262/06.

-AND-

IN THE MATTER OF:

An application under Rule 24 of the Central Administrative Tribunal (Procedure) Rules 1987 for implementation of the judgment and order dated 14.6.07 passed in OA No. 262/06.

48

Suren Ramchiari

125

-AND-

IN THE MATTER OF

Judgment and Order dated 5.11.08 passed in WP(C) No.6157/07 (Union of India & Ors -vs- Ajanta Boro and ors. passed by the Hon'ble High Court.

-AND-

IN THE MATTER OF

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

49 Suren Ramchiary

126

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

----------Petitioners

-VS-

1) Sri Ashotosh Swami
The General Manager
N.F.Railway, Maligaon,
Guwahati-781011.

2) Sri Shiv Kumar
The General Manager(Construction)
N.F.Railway, Maligaon,
Guwahati-781011.

3) Sri Anand Kishore Jha
The Divisional Railway Manager(P)
Alipurduar Division, N.F.Railway,
Alipurduar. 736123

--------- Contemners

The humble application on behalf of the petitioners above named

MOST RESPECTFULLY SHEWETH:

1. That the petitione_____

1. That the petitioners challenging the order dated 10.2.06 by which the respondents/contemners have rejected their claim of regularisation in group D vacancies preferred the above noted OA No.262/06 before this Hon'ble Tribunal.

50

Leena Ramchiari

The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to allow the said application vide judgment and order dated 14.6.07 directing the Respondents to constitute a responsible committee and thereafter to scrutinize the service records of the petitioners as per the direction in the judgment and order dated 19.7.05 passed in OA NO.336/04 and Ors. and thereby to consider their cases for regularisation within a period of four months.

A copy of the said judgment and order dated 14.6.07 passed in OA No. 262/06 in annexed herewith and marked as Annexure-1.

2. That the respondents assailing the legality and validity of the said Judgment and order dated 14.6.07 approached the Hon'ble High Court by instituting WP(C) No.6157/07. The Hon'ble High Court after hearing the parties to the proceeding at length was pleased to dismiss the said Writ Petition vide judgment and order dated 5.11.08.

A copy of the said judgment and order dated 5.11.08 is annexed herewith and marked as Annexure-2.

4. That the petitioners state that immediately after the aforesaid judgment and order dated 5.11.08 submitted the same before the authority concerned, but nothing was communicated to them till date. Situated thus the petitioners having no other alternative have approached this Hon'ble Tribunal filing this instant contempt petition.

Suren Ranchan

5. That the petitioners state that the judgment of this Hon'ble Tribunal was very clear regarding scrutinisation of the records of the petitioners and there after to consider their cases for regularisation in group D vacancy. But the contemners however have willfully and deliberately violated the judgment of this Hon'ble Tribunal without taking any leave from this Hon'ble Tribunal.

6. That the petitioners state that the action on the part of the contemners in not implementing the judgment dated 14.6.07 passed in OA No. 262/06 is very much contemptuous in nature and for the same the contemners are liable to be punished severely for their such action.

7. That the petitioners state that the contemners willfully and deliberately to violated the directions contained in the judgment. In such an eventuality the instant contempt petition is an unique of it's kind wherein there has been complete disobedience of a judgment and order passed by the Hon'ble Tribunal and it is a fit case wherein this Hon'ble Tribunal may be pleased to draw up appropriate contempt proceeding against the contemners and to punish them severely. The petitioners through this petition also pray before this Hon'ble Tribunal for proper implementation of the judgment and order dated 14.6.07 passed in OA No. 262/06 invoking Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987.

8. That this petition has been filed bonafide and to secure ends of justice.

Sureen Ranchan

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to draw up appropriate contempt proceeding against the contemners for their willful and deliberate violation of the judgment and order dated 14.6.07 passed in OA No.262/06 and accordingly punished them severely for such willful and deliberate violation of the same and an appropriate direction may be to implement the said judgment and/or pass any such order/orders as Your Lordships deem fit and proper.

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

Dutta Ranchiani

DRAFT CHARGE

Sri Ashotosh Swami,The General Manager,N.F.Railway, Maligaon,Guwahati-781011, Sri Shiv Kumar,The General Manager(Construction),N.F.Railway, Maligaon,Guwahati-781011 and Sri Anand Kishore Jha,The Divisional Railway Manager(P) Alipurduar Division, N.F.Railway, Alipurduar have willfully and deliberately violated the judgment and order dated 14.6.07 passed in OA No. 262/06 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench and as such they are liable to be punished under the provisions contained in Contempt of Courts Act for such act of willful and deliberate violation.

Suren Ranchéare

AFFIDAVIT

I, Shri Suren Ramchiary, aged about 36 years, Son of S.Ramchiary, presently residing at Maligaon, in the district of Kamrup, Assam, do here by solemnly affirm and do hereby solemnly affirm and state as follows;

1. That I am the petitioner No.1 and I am acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.

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

And I sign this affidavit on this the 30 th day of ...June... of 2009.

Identified by me :

Bondana Devi

Advocate

Suren Ramchiary

Deponent

Solemnly affirm and verify Ms. B. Devi, Advocate on 55 1st July 2009.

Dutta

Advocate

ANNEXURE - 1

N C I
Vs
Ajanta Boro

615-1/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,GUWAHATI

[1] O.A. No. 281 of 2005
[2] O.A. No. 261 of 2006
[3] O.A. No. 262 of 2006
[4] O.A. No. 263 of 2006

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

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

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

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

Applicants

By Advocate: Mr. B.Sarma

Attested
Advocate

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, Alipuduar.

... Respondents

By Advocate: Mr. K.K.Biswas

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

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

All are ex-casual labourers working under the respondents.

Applicants

By Advocate: Mr. H.K.Sarma

Versus

1. The Union of India, represented by the General Manger,N.F.Railway,Maligaon-Guwahati-11.
2. The General Manager [Construction],N.F.Railway, Maligaon,Guwahati-11.
3. The Dviisional Railway Manager[P] Alipurduwar Division,N.F..Railway,Alipurduwar.

.. .. Respondents

By Advocate: Mr. K.K. Biswas

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

1. Sri Suren Ramchary
2. Sri Ratan Boro.

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

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

By Advocate: Mr. H.K.Sarma ... Applicants

Versus

1 Union of India, represented by the General Manager, N.F.Railway,Maligaon,Guwahati-11.
2. The General Manager [Construction], N.F.Railway,Maligaon Guwahati-11.
3.The Divisional Railway Manager[P] Alipurduwar Division,N.F.Railway,Alipurduar.

By Advocate: Mr.K.K.Biswas. ... Respondents

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

1. Sri Dhaneswar Rahang
2. Sri Lohit Ch.Boro.
3. Sri Rati Kanta Boro.
4. Sri Monorangen Dwaimary.
5. Sri Manteswar Boro.
6. Sri Joy Ram Boro.
7. Sri Haricharan Basumatary
8. Sri Durga Ram Daimary
9. Sri Sabjib Boro
10. Shri Khargeswar Swargiary
11. Sri Pradip Kr. Boro

12. Sri Ugen Narzary.
13. Sri Tarun Ch. Boro
14. Sri Ramesh Ch. Ramchiary
15. Sri Monoranjan Deori.
16. Sri Ram Nath Pathak.
17. Sri Gopal Basumatary.
18. Sri Malin Kr.Das.
19. Sri Ranhit Swargiary.
20. Sri Ratna Kanta Boro
21. Sri Nirmal Kr. Brahma
22. Sri Monoj Das.
23. Sri Mrinal Das
24. Sri Sanjay Kr. Narzary
25. Sri Pankaj Baruah
26. Sri Ajit Kr. Sarania.
27. Sri Sunil Ch.Boro.
28. Sri Bipin Ch. Boro.
29. Sri Nepolin Lahary
30. Sri Rajen Daimary
31. Sri Asnuma Swargiary.
32. Sri Suren Daimary
33. Sri Raju Borah
34. Sri Pradip Das
35. Sri Robin Dwaimary
36. Sri Pradib Boro
37. Sri Chandan Dev Nath
38. Sri Kamaleswar Boro
39. Shri Phukan Boro
40. Sri Krishna Ram Boro
41. Sri Rateneswar Boro
42. Ex-Casual Labourers in the Alipurduwar Division [P]/[Con],N.F.Railway.

.. Applicants

By Advocate; Mr. H.K Sarma

Versus

1. The Union of India, represented by the General Manager, N.F.Railway, Maligaon,Guwahati-11.
2. The General Manager [Construction], N.F.Railway, Maligaon,Guwhati-11 .
3. The Divisional Railway Manager [P], Alipurduar Division, N.F.Railway, Alipurduar.

.. Respondents

By Advocate: Mr. K.K.Biswas

ORDER

136

K.V.Sachidanandan-Vice-Chairman:

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

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

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

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

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

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

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

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

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

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

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

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

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

original Labour Card

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

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

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

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

"5. As already noted, the applicants had earlier approached this Tribunal by filing OA No.259, 44 and 43 of 2002 and this Tribunal had disposed of the said applications by directing the applicants to make representations before the Railways. We find that the Tribunal had specifically considered the contention of the respondents that the claim of the applicants is highly belated. The Tribunal observed that when similarly situated persons have earlier approached the Tribunal and obtained reliefs and were absorbed the applicants cannot be denied the benefits, if they are really entitled to on the ground of delay. It was further observed that when similar nature of orders were passed it was equally incumbent on the part of the respondents to issue notices to all the like persons so that they could also approach the authority for appropriate reliefs. The Tribunal, however, observed that ends of justice will be met if a direction is issued on the applicants also to submit their representations giving details of their services and narrating all the facts within a specified time and if such representations are filed within the time, the respondents shall examine the same as expeditiously as possible and take appropriate decisions thereon within a specified time. One such representation is Annexure-6 in the OA No.336/2004. We are sorry to note that respondents had dealt with the matter in a very casual manner by passing the impugned orders all dated 18.3.2004. The orders only say that the genuineness of the casual labour cards is not established. It is not clear as to whether the applicants were afforded an opportunity by the Railways for establishing the genuineness of the casual labour cards. There is no averment in the written statement in this respect. Further, there is no case for the Railways that they have ascertained the genuineness of the labour cards from the officers who are stated to have issued the cards. From the written statement and from the submission of Dr.Sharma it is clear that the names of the persons who have issued the casual labour cards were very much known to the Railways. Why in such a situation, no such step was taken to verify the genuineness of the casual labour cards with those officers in anybody's guess. We do not want to further comment on the conduct of the Railways. Dr, Sharma has placed before us the identity cards, the records of the officers who had issued the identity cards and also

the records containing the Xerox copies of the casual labour live register. We have perused the said records. We do not want to say anything with regard to the identity cards i.e. as to whether they are genuine and were issued during the relevant period and why the Railways did not make any effort to ascertain its genuineness through the officers who are stated to have issued those cards. For our purpose, the extract of the Xerox copies of Casual Labour Live Register is sufficient.

6. Now, on the question whether the Xerox copies of the Casual Labour live register can be relied, respondents have taken a stand in the written statements that unless the details contained in the Xerox copies are verified with the original it cannot be relied. The respondents at the same time do not have the original of the Casual Labour live register. How it is missing is neither clear nor stated. Now, coming to the Xerox copies of the Casual Labour live register, on perusal of the records, we find the reason for taking such photocopies in a communication dated 5.1.1989 issued by the Executive Engineer/BG/CON, N.F.Railway, Bongaigaon to the Deputy Chief Engineer/CON, N.F. Railway, Jogighopa. It is stated therein that 483 surplus ex-casual labours had to be re-engaged and therefore after holding discussions with the relevant organization the letter is sent along with Xerox copies of the "Casual Labour Live Register" for suitable and necessary action by the Deputy Chief Engineer. Xerox copies of the said document are available in the records maintained by the Railways. From the above it can be assumed safely that the Xerox copies represent the original and it is maintained in the regular course of business of the Railways. It is surprising, when the Xerox copies of the casual labour live register along with the letter dated 5.1.1989 is in the records maintained by the Railways, how they could say in the written statement "For obvious reasons, these records could not be relied upon as authentic due to the fact that such materials are capable of being manipulated due to the high stakes involved." On this aspect, we do not want to make further observation which may eventually damage the reputation of the persons who made such bald statements

7. Now, coming to the matter on merits the respondents are in possession of records [Xerox copies of the live register] containing the details of the applicants. Of course some of the applicants do not find a place in the said records also. In respect of applicant no.1 in OA

336/2004 the earlier written statements filed by the Railways in OA 259/2002 and referred to in Annexure-5 judgment in OA 336/2004 the following observations occurs:-

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

8. As already noted, the only reason for rejecting the claim of the applicants is that the casual labour identify cards produced by the applicants the genuineness of which is doubtful. In the circumstances, as already discussed, the respondents are directed to consider the case of the applicants ignoring the identity cards and based on their own records namely, the Xerox copies of the casual labour live register, the documents with reference to which the earlier written statements were filed and extracted hereinabove and to take a decision in the case of the applicants in all the three cases afresh within a period of four months from the date of receipt of this order. For the said purpose, the impugned orders all dated 19.3.2004 [Annexure-7 in OA Nos.336/2004 and 338/2004 and aannexure-11 in OA 337/2004] are quashed. The concerned respondent will pass reasoned orders on merits as directed hereinabove.

9. Before parting with, we would also like to refer to the decision of the Hon'ble Supreme Court in Ratan Chandra Samanta & Ors. Vs. Union of India & Ors., 1994 SCC[L&S] 182 relied on by Dr. M.C.Sharma. The said decision was rendered in Writ Petition [civil] filed under Article 32 of the Constitution of India. In that case the applicants who were ex-casual labours in south Eastern Railways alleged to have been appointed between 1964-69 and retrenched between 1975-78 had approached the Supreme Court for a direction to the opposite parties to include their names in the live casual labourer register after due screening and to give them re-employment according to their seniority. Supreme Court rejected the said Writ Petition stating that no factual basis or any material whatsoever prima facie to establish their claim was made out in the Writ Petition. The contention that the petitioners therein will produce all the documents before the authorities, in the above circumstances, was repelled. The said decision is not applicable in the instant case for the reason that there are necessary averments in the representation filed by the applicants and necessary materials are also available in the records maintained by the Railways.

The OAs are allowed as above. In the circumstances, there will be no order as to costs."

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

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

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

Not casual labours ?

147

OAs. However, when the matter came up for hearing, the counsel for the applicants have taken my attention to the decision of this Tribunal in the case **of Swapan Sutradhar and others vs. Union of India & others, O.A. No.263 of 2002**, dated the 2nd June, 2004, wherein this Court has directed to re-examine the cases of the applicants therein by constituting a responsible Committee and scrutinize the cases of the applicants therein. For better elucidation, the said judgment is reproduced as below:-

Dated 2.6.2004

"ORDER

K.V.Prahladan, Member[A]:

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

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

Central Administrative Tribunal GUWAHATI

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
1 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

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

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

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

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

Sd/ VICE CHAIRMAN

TRUE COPY

प्रतिलिपि

(Jumolan) 13/7/09.

अनुभाग अधिकारी

cm

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
1 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

ANNEXURE-2

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM; NAGALAND; MEGHALAYA; MANIPUR; TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

W.P.(C) No.6157 of 2007

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

2. The General Manager (Construction),
N.F. Railway, Maligaion, Guwahati.

3. The Divisional Railway Manager (P),
N.F. Railway, Alipurduar Division,
Alipurduar.

.....Petitioners.

-Vs.-

(A). O.A. No.281/2005

1. Ajant Boro, son of Sri Moniram Boro.
2. Brijesh Ch. Boro, son of Sri Jogen Boro.
3. Dilip Choudhury, son of Sri Rameswar Choudhury.
4. Rabindra Boro, son of Sri Chandra Kt. Boro.
5. Lachit Kr. Basumatary, son of Puna Ram Basumatary.
6. Pabitra Wary, son of Sri Mahim Wary.
7. Ram Nath Thakuria, son of Sri Dayal Thakuria.
8. Moni Ram Boro, son of Umesh Boro.
9. Jiten Boro, son of Bipin Boro.
10. Upen Boro, son of Bhanda Boro.
11. Rajen Swargiary, son of Haloi Ram Swargiary.
12. Makhthang Daimary, son of Langa Daimary.
13. Ratan Ch. Boro, son of Late Jamuna Boro.
14. Kartik Narzary, son of Baya Ram Narzary.
15. Warga Ram Daimary, son of Maya Ram Daimary
16. Bipul Ramchiary, son of Sri Agin Ramchiyary.

Attested
Advocate

17. Monoa Kr. Basumatary, son of Sri Jogeswar Basumatary.
18. Lalit Ch. Boro, son of Sri Durga Boro.
19. Girish Ch. Basumatary, son of Sambar Basumatary.
20. Maheswar Boro, son of late Benga Boro.
21. Budhan Ramchiary, son of Sri Madhab Ramchiary.
22. Ananta Shargiary, son of Late Bimal Shargiary.
23. Bipin Daimary, son of Sri Nabin Daimary.
24. Kanistha Basumatary, son of Jogendra Basumatary.
25. Samala Boro, son of Hasa Ram Boro.
26. Bapa Ram Boro, son of Sri Mohan Boro.
27. Lakhi Boro, son of Nawa Boro.
28. Achut Ramchiary, son of Rajen Ramchiary.
29. Nandi Daimary, son of Jabla Daimary.
30. Dinesh Ch. Boro, son of Ana Boro.

(B) O.A. No.261/06

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

All are ex-causal labourers working under the respondents.

(C) O.A. No.262/06

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

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

(D) O.A. No.263/06

1. Sri Dhaneswar Rahang,
2. Sri Lohit Ch. Boro.
3. Sri Rati Kanta Boro.
4. Sri Monorangen Dwaimary.
5. Sri Manteswar Boro
6. Sri Joy Ram Boro.
7. Sri Haricharan Basumatary.
8. Sri Durga Ram Daimary.
9. Sri Sanjib Boro.
10. Shri Khargeswar Swargiary.

11. Sri Pradip Kr. Boro.
12. Sri Ugen Narzary.
13. Sri Tarun Ch. Boro.
14. Sri Ramesh Ch. Ramchiary.
15. Sri Monoranjan Deori.
16. Sri Ram Nath Pathak.
17. Sri Gopal Basumatary
18. Sri Malin Kr. Das
19. Sri Ranhit Swargiary
20. Sri Ratna Kanta Boro
21. Sri Nirmal Kr. Brahma
22. Sri Monoj Das
23. Sri Mrinal Das
24. Sri Sanjay Kr. Narzary.
25. Sri Pankaj Baruah
26. Sri Ajit Kr. Sarania
27. Sri Sunil Ch. Boro
28. Sri Bipin Ch. Boro
29. Sri Nepolin Lahary
30. Sri Rajen Daimary.
31. Sri Ansuma Swargiary
32. Sri Suren Daimary
33. Sri Raju Borah
34. Sri Pradip Das
35. Sri Robin Dwaimary
36. Sri Pradib Boro
37. Sri Chandan Dev Nath
38. Sri Kamaleswar Boro
39. Sri Phukan Boro
40. Sri Krishna Ram Boo
41. Sri Ratneswar Boro.

Ex-Causal Labourers in the Alipurduwar Division (Con.), N.F. Railway.

.....Respondents.

BEFORE
HON'BLE MR. JUSTICE AFTAB H. SAIKIA,
HON'BLE SMT.JUSTICE ANIMA HAZARIKA.

For the Petitioners :: Mr. S.Sarma-Standing Counsel, Railway.
Mr. P.C.Boro, Mr. H.K Das.
- Advocates.

For the Respondents :: Mr. B. Banerjee, Ms. Mallika Deb,
Mr. J. Laskar, Mr. A. Dey,
Ms. B. Debi.
- Advocates in OA No.281/2005.

Mr. G. Goswami.
- Advocate in O.A. Nos.261/2006, 262/2006 and 263/2006.

Date of hearing :: 19.8.2008 and 28.8.2008.

Date of Judgment :: 5.11.2008

JUDGMENT & ORDER

BY A. HAZARIKA, J.

The instant writ petition is filed against the order dated 14.6.2007 passed by the learned Central Administrative Tribunal, Guwahati Bench (hereinafter to be referred to as Tribunal only) in Original Application Nos.281/2005, 261/2006, 262/2006 and 263/2006 whereby the learned Tribunal disposed of the original applications as mentioned above by a common judgment directing the respondents to constitute a responsible committee with senior officials to scrutinize the available records of the applicants for regularisation as per directions in

O.A. No.336/2004 and if requested, by giving a personal hearing to each individual and consider the case individually, pass appropriate orders and communicate the same to the applicants within a reasonable period, in any case within four months from the date of receipt of the order.

2. Before determining the legal issues raised by the parties, the factual background of the case in a nutshell is narrated herein below ;-

The respondents herein are the applicants in O.A. No.281/2005, 261/2006, 262/2006 and 263/2006. In OA No.281/2005 there are 30 (thirty) applicants. In OA No.261 of 2006 there are 11 (eleven) applicants. In O.A. No.262/2006 there are 17 (seventeen) applicants and in O.A. No.263/2006 there are 41 (forty one) applicants. They were all ex-casual labourers working under the petitioners herein. The petitioners are represented by the Railway, Government of India, more particularly represented by the General Manager, N.F. Railway, Maligaon and other petitioners are the officers of N.F. Railway.

3. The cause of action of such initiation of cases started in the year 1996 when a batch of similarly situated ex-labour employees serving under the Railway approached the Tribunal, by way of filing application being O.A. No.79 of 1996. The Tribunal disposed of the aforesaid OA directing the Railway to consider their cases within a stipulated time. The applicants of the said O.A. were granted benefit of temporary status. The case of the respondents herein is that though

they are similarly situated to the applicants in O.A. No.79/1996, their cases were not considered in the screening held by the Railways and as such they were deprived of an opportunity for consideration of their cases for appointment on regular basis under the Railways thereby discriminated in the matter of regular absorption which culminated in preferring the O.A's mentioned hereinabove.

4. It may be pertinent to mention herein that the respondents herein had preferred O.A. 255/2003, O.A. 336/2004, O.A. 337/2004 and O.A.338/2004 before the learned Tribunal wherein and whereof the Tribunal directed the applicants to submit their representations giving the details of their service as far as possible and the respondents/ Railways were directed to dispose of the same. While taking up the cases of the respondents by the Railway, the railway directed them to produce documentary evidence relating to identity cards however their cases could not be considered on the ground that genuineness of identity cards could not be established and on that ground the Railway rejected their representations by the impugned orders of the respective OAs which had been challenged in OA No.281 of 2005, OA No.261/2006, OA No.262/2006 and OA 263/2006.

5. Earlier to the above-mentioned OA's the respondents herein had preferred OA No.259/02, OA No.43/02 and 44/02 before the learned Tribunal. The learned Tribunal had disposed of the abovementioned OAs directing the applicants therein to make

representations setting out their respective claims. The said applications were rejected by the railway on 18.3.2004 holding that the genuineness of their casual labour card could not be established resulting in preferring three numbers of OA's being 336/2004, 337/2004 and 338/2004 which had also culminated in dismissal as mentioned in the preceding paragraph.

6. The claim for regularisation and/or seeking temporary status in Group-D posts under the Railway relates back to the years 1987, 1992 and 1998 whereby opportunity were provided to all ex-causal labourers engaged with N.F. Railway for enlistment of their names in the Supplementary/Live Casual Labour Register and accordingly were asked to submit application within 31.3.1987 in order to enable the Railways to consider their respective claims. Accordingly, list of ex-casual labour was prepared by the Railway on 1.2.87 wherein the name of the applicants in OAs and respondents in the writ petition appeared. But it could not be ascertained as to whether their cases were considered by the Railway for giving the benefit of temporary status since no pleadings are available in the writ petition.

7. Thereafter the Railway Board launched a special drive vide Board's letter No.NG/11/98/CL/32 dated 9.10.1998 for regularisation of all the Ex-casual labourers borne on Live/Supplementary Register against regular vacancies and accordingly all the ex-casual labourers were regularised. In the Railway Board letter dated 9.10.1998 under the

caption of "special drive the ex-casual labourers borne on Live/Supplementary Register" was not considered though the list of all the ex-casual labourers borne in the Live/Supplementary Register was available before the Railway vide communication dated 17.7.95 resulting in preferring O.A. No.79/1996 before the learned Tribunal and accordingly they were absorbed and the respondents herein were left out to the reasons best known to the respondents authority though the learned Tribunal had repeatedly directed to consider their cases according to Live/ Supplementary Register if their names borne in the said register which the railway did not consider and the repeated litigation continued before the learned Tribunal and against the order dated 14.6.2007 passed analogously by the learned Tribunal, the Railway has approached this Court by way of this writ petition seeking setting aside the order dated 14.6.2007.

8. Assailing the judgment and order dated 14.6.2007 rendered by the learned Tribunal Shri S. Sarma, learned Standing Counsel representing the Railway would urge the following points viz ;

a) The Railway, in fact, had issued a circular in the year 1992 providing opportunities to all the ex-casual labours to place their claim before the concerned respondents within the stipulated period which opportunity they did not avail and therefore their claim is hopelessly time-barred and on this ground alone the writ petition deserves to be allowed

by setting aside the impugned order under challenge, more so, when this Court in similar circumstances allowed the writ petition, being No.W.P(C) No.6201/2007 (Shri Gopal Chandra Saha & Others - Vs-Union of India & Others) wherein the court has observed that the principle of bar in litigation either by limitation or laches is based on public policy of not to permit to adjudication of a stale case, thereby dismissed the writ petition preferred by some of the ex-casual labourers ;

b) The respondents herein had worked only about 3 to 6 montns during the year 1985 and their claim were based on some fake documents which was sent to the Forensic Science Laboratory (FSL for short) for verification of their labour card wherein the FSL opined that the signature in labour card does not tally with the signature of the officials who had alleged to have been signed in the labour card and on the basis of the fake labour card their case was rejected and on this ground alone the writ petition deserves to be allowed ;-

c) The question of xerox copies of Live/ Supplementary Casual Labour register, the original of which was lost cannot be relied upon until and unless the xerox copies are verified with the original.

Therefore would urge that on the basis of the xerox copies their case cannot be considered for regular absorption in Group-D post, more so, when it is highly belated and therefore submits that considering the factual grounds of the case and the direction issued by the learned Tribunal requires interference under Article 226 of the Constitution of India.

9. Refuting the submissions made by the standing counsel of the Railway, Mr. B. Banerjee appearing in O.A. 281 of 2005 has referred the pleadings set forth in the writ petition alongwith the pleadings in O.A. No.263/2006 including the written statement by the Railway and would urge that admittedly the Railway in order to clear the backlog of SC/ST in Group-D vacancies initiated a special recruitment drive in the year 1987, 1996 and 1998 directing to all Zonal Railways to take up an action plan to ensure absorption of all casual labourers of railway so far names were kept in the Live Casual Labour Register and the entire process of which were to be completed by December,1997, so that the position of "no causal labour" is achieved. Drawing the attention of the court, Mr. Banerjee has referred the order dated 10.6.2006 whereby the Railway Board had launched a special drive for regularisation of all the ex-casual labourers borne on Live/ Supplementary Register against regular vacancies. The Railway did not consider the Live/Supplementary Casual Labour Register in case of the respondents herein violating Article 14, 16 and 16(4) of the Constitution of India.

10. In reply to the questions of delay as raised by the Standing Counsel of the Railway Mr. Banerjee has referred the judgment passed in O.A's 336, 337 and 338 of 2004 and the judgment under challenge in the writ petition whereby and whereunder the learned Tribunal absorbed that when similarly situated persons have earlier approached the Tribunal and obtain reliefs and were observed the applicants cannot be denied the benefits, if they are really entitled to on the ground of delay. The said observation was made referring the applicants in O.A. No.79 of 1996. In support of his contentions he has relied on two decisions of the Apex Court reported in (1990) 4 SCC 13 (Lt. Governor of Delhi & Others -Vs- Dharampal & Others, (1997) 6 SCC 721 (K.C. Sarma & others -Vs- Union of India & Others) wherein the Apex Court has held that the benefit of the judgment should have been given in a case where similarly situated persons were given the benefit by condoning the delay and the reference so made in W.P(C) No.6201 of 2007 (Supra) dated 10.12.2007 has no application in the instant case, Mr. Banerjee has urged.

11. Mr. Banerjee has further urged that there is in existence of Live/Supplementary Register as held by the Tribunal at paragraph 13 of the judgment under challenge and the pleadings made in the additional affidavits alongwith its annexures filed by the respondents in O.A. 281 of 2005 and O.A's No.261, 262 and 263 of 2006 whereby and wherefrom it can be conclusively proved that there are Live/Supplementary Casual Labour Register dated 17.7.1995 certified by PW-1 on 1.2.1987 which

was not disputed in regard to genuineness of the aforesaid registers by the writ petitioner, wherein the name of all the applicants in O.A. 281 of 2005 are available and the name of all the applicants in O.A's 261, 262 and 263 of 2006 were verified by the officers of the Railway on 16.3.2004 and found correct and therefore their claim for consideration by the responsible committee as ordered by the Tribunal cannot be denied in the facts and circumstances of the case.

12. Mr.Banerjee, learned counsel appearing for the respondents in O.A. No.281/2005 would urge that the judgment under challenge does not require to be interfered with since the Court is exercising the jurisdiction which is Ccertiorari in nature and the scope of interference being limited the case deserves to be dismissed. In support of his contentions he has relied on a decision of the Apex Court reported in AIR 2004 S.C. 3892 (Ranjeet Singh-V-Ravi Prakash).

Mr. G. Goswami, learned counsel appearing on behalf of the respondents in O.A. Nos.216/2006, 262/2006 and 263/2006 has supported the argument advanced by Mr. Banerjee.

13. Considered the submissions made by the counsel of the respective parties. Perused the judgment under challenge alongwith the pleadings of the parties and the affidavits filed by the respondents. The order dated 10.12.2007 passed in W.P(C) No.6201/2007 (Supra) would show that the writ petitioners therein were ex-casual labourer, who worked during 1977-80 and thereafter their services were not replaced on the ground that there was no work available for replacement of their

service. However, in the year 1987 the Railways issued a circular pursuant to a direction issued by the Supreme Court holding that casual labourers who worked as Project Casual Labourers before 1.1.1981 and discharged for want of further works due to completion of work to make representation on or before 31.3.1987 for the purpose of inclusion of their names in the seniority list which was to be prepared pursuant to the order of the Apex Court. The writ petitioners did not avail the opportunity of the above-mentioned circular and became vigilant only from December,2000 and kept on making representations which did not yield any result and ultimately approached the learned Tribunal being O.A. No.46/2005. The Tribunal rejected the applications holding that the application was made beyond the period stipulated in Section 21 of the Administrative Tribunal Act,1985 which bars entertaining any application beyond the stipulated period. However, while rejecting the application the Tribunal made observation that the respondent may consider representations of the applicants in view of the fact they were working during the period 1977-1980. The employees took the advantage of the aforesaid observation so made and filed the representations which was rejected on 18.8.2005 and the petitioners once again approached the Tribunal being O.A. No.229/05. The Tribunal passed an order directing the applicants to file appeals/representations against the impugned orders before the respondent No.2 pointing out the illegalities in the impugned order within a period of one month from the date of the order making it clear that if any appeal/ representation is filed by the applicants, the 2nd respondent will dispose of the same in accordance with law and in the light of the observation made by the Tribunal in the

163

said order within a period of three months thereafter further directing the respondents to pass a reasoned order with reference to records. Thereafter the respondent passed a speaking order on 24.2.2006 rejecting the claim of the applicants. Against the said rejection order dated 24.2.2006 the applicants once again approached the Tribunal being O.A. No.75/2006 which also stand dismissed vide order dated 4.10.2007 and hence the writ petition being W.P(C) No.6201/2007 (Supra) was filed which was dismissed being barred by limitation which is not the case in hand in the instant writ petition.

14. In the instant case, the applicants in O.A. No.79/96 were absorbed in Group-D post and consequently thereupon the respondents herein approached the Tribunal whereby the Tribunal directed the Railway to consider the case of the respondents but the same was rejected by the Railway. Thereafter, the respondents herein once again approached the Tribunal and the Tribunal directed to consider the case in the light of Live/Supplementary Live Casual Labour Register, if their names were borne in the said Register, which was not done by the Railway.The materials placed before the court do not indicate the action if any, has been taken by the writ petitioners/Railway and therefore the Tribunal has successively directed to consider the cases of the applicants in accordance with the Live/Supplementary Live Casual Labour Register which was/has not been done by the Railway and therefore it cannot be construed that the instant case is covered by the decision rendered by this court on 10.12.2007 in W.P.(C) No.6201/2007. Moreover, the writ petitioner has not questioned the legality and validity

of the Live/Supplementary Live Casual Labour Register maintained by the officer of the Railway dated 1.2.1987 and 17.7.1995. In absence of legality of the said live registers being in question the Court is of the opinion that Live/Supplementary Live Casual Registers are maintained by the writ petitioner but has not acted upon the same which is reflected in the judgment under challenge.

15. Admittedly the learned Tribunal disposed of the case being O.A. No.79/96 and the Railway absorbed the applicants therein in Group-D post and accordingly, the respondents herein have claimed the benefit of the judgment and this Court after going through the judgment under challenge has no hesitation to hold that they are entitled to get the benefit of the judgment, more so, when in the additional affidavit filed by the applicants in O.A. No.281 of 2005 annexing correspondences of the communication dated 1.2.1987 and 17.7.1995 wherein the name of the applicants are made available in Live/ Supplementary Live Casual Labourers Registers mentioned by the Railway. In case of O.A. No.261/06, O.A. No.262/06 and O.A. No.263/2006 the additional affidavit filed would show that the name of the applicants were verified by the officers of the Railway on 16.3.2004 and found correct and therefore their claim for consideration by the responsible committee cannot be denied as ordered by the Tribunal.

16. We have carefully perused the decisions cited by the counsel appearing for O.A. No.281/05 and reported in (1990) 4 SCC 13 (Supra) and (1997) 6 SCC 721 (Supra), wherein, the Apex Court has

held that the benefit of the judgment to other similarly situated must be given even if there is delay in approaching the court/tribunal. The case in hand, according to us, is squarely covered by the decisions of the Apex Court. 165

17. The other question of exercise of writ of Certiorari as raised by the counsel of the respondents herein, the court has no hesitation to hold that Certiorari jurisdiction would not be available to correct the errors in drawing inferences like a court of appeal and the decision cited and reported in AIR 2004 SC 3892 (Ranjeet Singh-Vs-Ravi Prakash) supports this proposition of law in the matter of exercise of writ of Certiorari jurisdiction.

18. In the result the writ petition is dismissed and the judgment rendered by the learned Tribunal is upheld directing the writ petitioners to comply with the directions within the time specified in the judgment of the Tribunal from the date of receipt of a certified copy of this order. The parties are left to bear their own costs.

Sd/- A HAZARIKA
JUDGE

Sd/- A H SAIKIA
JUDGE

Memo NO.HC.XXI---24994-96---R.M. Dtd ---15/12/08---

Copy forwarded for information and necessary action to: -

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

By order

Asstt. Registrar (B)
Gauhati High Court, Guwahati.

12/12/08

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
1 JUL 2009
गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

166

C. P. 6 / 2009

IN

O. A. NO. 262 / 2006

Shri S. Ramchiari & Others

-Vs-

Shri Asutosh Swami & Others

INDEX

Sl. No.	Particulars	Annexure	Page
1.	Affidavit in reply		1 - 3
2.	Affidavit		4
3.	Copy of the letter dated Shri S. Ramchiari	Annexure R 1	5

Received copy.
for B. Devi
17.8.09.

Advocate 17/8/09.
S.C. Rly.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

C. P. No. 6 / 2009

IN

O. A. No. 262 / 2006

Shri S. Ramchiari & Others ... Petitioners

-Vs-

Shri Ashutosh Swami & 2 Others

Affidavit in reply on behalf of the Respondents.

The humble Respondents in the above Contempt Petition most respectfully states as under :

1. That the Respondents have received the copy of the above Contempt Petition through the learned Standing Counsel for the Railway and immediately contacted him for informing him about the factual position of the action initiated and also for his advice for effective compliance of directives of this Hon'ble Tribunal and Hon'ble Gauhati High Court. Copy of the Notice dated 2.7.2009 of the Hon'ble Tribunal has also been received.
2. That in reply to the statements in paragraph 1 to 4 the Respondents beg to state that immediately after the judgment of the Hon'ble High Court the Respondents in the OA and the CP took necessary steps for collecting the records of the case. The matter relates to very old period and there are large number of applicants. There have been number of cases earlier. The Respondents were under legal advice that all the records should be given

Contd. p/2

उप मुख्य कार्मिक अधिकारी (नि)
Dy, Chief Personnel Officer (Con.)
पू०सी० रेल, मालिगाँव
N.F, Railway, Maligaon
गुवाहाटी-11
Guwahati- 781011

168

to the committee that would be constituted for scrutinizing the cases for due compliance of the judicial orders. The matter pertains to both Construction Organization and Alipurduar Division territory of N. F. Railway. The records of both these organizations before and after 1987 have to be searched, compiled and examined to obtain the factual position. The number of applicants are also large in number. Sincere efforts have been made to co-ordinate and collect the factual position and records in the matter for cause of justice. In the process some period has passed and necessary committee has since been constituted, and letters have been issued by registered post to the applicants in the OAs asking them to present their cases before the said committee.

Copy of letter dated 17.7.2009 to Shri S. Ramchiari is enclosed as Annexure-1. (All the letters are identically worded).

3. That the committee of three members have been constituted including officers from Engineering and Personnel Branches of the Railways, and by letter dated 24.7.2009 the members of the committee have been informed of the same, and the dates have been fixed as 17.8.2009, 18.8.2009,19.8.2009 and 20.8.2009 from 10.00 hrs. The Respondent respectfully submits that if circumstances in the process demands longer period by extension of days of functioning of the committee for cause of justice, the same would be done for due and effective compliance of the orders of the Hon'ble Tribunal and High Court.

Contd. p/3

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
17 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

उप मुख्य कार्मिक अधिकारी (नि)
Dy, Chief Personnel Officer (Con.)
पू०सी० रेल, मालिगाँव
N.F, Railway, Maligaon
गुवाहाटी-11
Guwahati- 781011

167

4. That in reply to statements in paragraphs 5, 6 and 7 of the C. P. the Respondents deny the allegation of willful and deliberate violation of the judgement of the Hon'ble Tribunal, and states that the Respondents/ opposite parties are Law abiding persons and deny the allegation of contemptuous nature, and that there has been willful disobedience of judgement. The Respondents respectfully state that there has been some delay in constituting the committee for scrutinizing each case as ordered by the Hon'ble Tribunal, for the reasons explained in para 2 above and expresses sincere regret and offer apology for the same.

5. That in the circumstances explained above the Hon'ble Tribunal may be pleased to drop/close the contempt petition.

..... Affidavit

उप मुख्य कार्मिक अधिकारी (नि)
Dy, Chief Personnel Officer (Con.)
पू०सी० रेल, मालिगाँव
N.F, Railway, Maligaon
गुवाहाटी-11
Guwahati- 781011

170

AFFIDAVIT

I, Shri Shatrughna Behera, aged about 38 years, son of Shri B. C. Behera, working as Deputy Chief Personnel Officer, N. F. Railway / Construction, resident of Maligaon, Guwahati –11, do hereby solemnly affirm and say that I am fully conversant with the facts and circumstances of the case, and that I have been authorized by the Respondents/ Opposite Parties in the above C.P. to swear, affirm and sign this affidavit, which I do accordingly. I say that the statements made in paras 1, 2, 3, 4 and 5 are true to my knowledge, and that I have not suppressed any material facts.

I sign this affidavit this 14 th day of August, 2009 at Guwahati.

Signature

मुख्य कार्मिक अधिकारी (नि)
Dy, Chief Personnel Officer (Con.)
पू०सी० रेल, मालिगाँव
N.F, Railway, Maligaon
गुवाहाटी-11
Guwahati- 781011

Identified by me

14/8/09

(S. Tamuly)
Advocate

Solemnly affirmed and sworn in before me this th day of August/2009 at Guwahati, being identified by Shri S. Tamuly, Advocate

17 AUG 2009

14/8/09

Advocate (N. Ahmed)

-5-

Annexure - R-1.

N.F.RAILWAY/Confidential

Office of the
General Manager/Con
Maligaon, Guwahati

NO: E/63/Con/I(CL's Court case)

Dated: 27.07.09

To

Shri Surya Ramchiary
C/o Nagen Basumatary
Vill Namanami Gaon
P.O. Rangapara
Dist. Sonitpur (Assam)
784505

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
17 AUG 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Sub: Implementation of orders dated [illegible] of CAT/GHY in OA No.281/2005, 261/2006, 262/2006 and 263/2006

In view of implementation of above [illegible] you are hereby advised to attend for verification of the records on 18.8.09 at 10 hrs at the Committee Room of GM/Con 's office with [illegible] documents.

1. Copy of engagement letter
2. Copy of discharged letter
3. Copy of Ex. Casual labour card
4. Certificate of date of birth
5. Education qualification Certificate
6. Caste Certificate
7. Identity Card

An extra attested Xerox copy of each [illegible] also to be brought for submission before the Committee.

[illegible]
Sr. P.C.M.-I
O/Con
For General Manager/Con

Sr. Personnel Officer/Con
N.F. Railway, Maligaon
Guwahati-781011

For General Manager/Con
पूर्वो रेलवे मालीगांव
N.F. Railway, Maligaon
गुवाहाटी-781011
Guwahati-781011