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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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02/07/2015
SECTION OFFICER (JUDL.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

- 155
1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) : Dipranath Yadav & ops.

Respondent (S) : Union of India & ops.

Advocate for the : Mrs. G. Goswami,
{Applicant (S)} Mrs. B. Devi or Mr. H.K. Das

Advocate for the : Dr. J.L. Sarkar.
{Respondent (S)} Rly. Standing Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>this application is in form is filed/C F. for Rs. 50/- deposited vide IPO/BB No. <u>396/418530</u> Dated <u>12-8-09</u></p> <p><u>12-8-09</u> Dy. Registrar <u>12/8/09</u></p> <p><u>12.8.09</u> 3 (three) copies of Application with envelopes received for issue notices to the Respondents No 1 to 3. Copy served.</p> <p><u>12/8/09</u> K. Das</p> <p>Send copies of this order along with copies of this O.A. to the Respondent Nos. 1 & 2 by Special Messenger and to the Respondent No. 3 by registered A/D.</p>	<p>13.08.2009</p> <p>/bb/</p>	<p>Call this matter on 21.08.2009; when Dr.J.L.Sarkar, learned Standing counsel for the Railways, shall obtain instruction in the matter.</p> <p>Send copies of this order (along with copies of this O.A.) to the Respondent Nos.1 & 2 by Special Messenger and to the Respondent No.3 by Registered A/D.</p> <p><u>(M.K.Chaturvedi)</u> Member (A)</p> <p><u>(M.R.Mohanty)</u> Vice-Chairman</p>

2
 Copies of notices
 along with order
 dated 13/8/2009 send
 to D/Sec. for issuing
 to R-1, 2 by spl.
 Messenger and the
 R-3 by regd-A/D
 post.

D/No - 9449 - 9451

7/8/09. Dt = 18/8/09

21.08.2009

In this case a written objection has
 been filed on behalf of the Respondents.
 The Applicant has also filed reply to the
 said objection.

Call this matter on 10th September

2009.

(M.K. Chaturvedi)
 Member(A)

(M.R. Mohanty)
 Vice-Chairman

lm

10.09.2009

Mr. H. K. Das, learned counsel
 for the Applicant is present.
 Dr. J. L. Sarkar, learned Standing counsel
 for the Railways seeks sometime to bring
 further materials on record by way of
 filing written statement/additional
 written statement. He seeks six weeks
 time to do so. Prayer of Dr. Sarkar is
 allowed. He is granted time till
 26.10.2009.

2. Mr. H. K. Das, learned counsel for
 the Applicants states that a Committee
 (of officers of Railways) is examining the
 cases of similarly placed (as that of the
 Applicants) Casual Labourers (to find out
 as to whether their cases can be kept in
 the Live Casual Labourers to confer
 Temporary Status and to bring them over
 to regular establishment) who are

Contd/-

17.8.09

Written objection
 has been filed by the
 Respondents through
 their Standing Counsel
 Dr. J. L. Sarkar. Copy
 served.

17/8/09

W/S filed

20.8.09

20.8.09

Reply of the written
 objection has been filed
 by the Applicant. Copy
 served.

20/8/09

24.8.09

Preliminary objection
 has been filed by the
 Respondents through
 Dr. J. L. Sarkar, their
 Standing Counsel, on the
 Court on 21.8.09.

24/8/09

Contd/-

10.09.2009

Applicants in C.P.Nos.05/09, 06/09 & 07/09. He prays that the said Committee of officers need examine the cases of the present Applicants. Dr.J.L.Sarkar, learned Standing Counsel for the Rly., by way of making stiff opposition to the submissions of Mr. Das, states that since one Committee had already examined the case of the present Applicants, there are no need of the same to be examined again, especially when they did not ask for personal hearing. Mr. H. K. Das, learned counsel for the Applicants stated that the Railways approached the Hon'ble Court in the Original Case and lost and, only after losing the case, they are conducting verifications now and, therefore, the stand of the Respondents are not acceptable. It is his case that the stand of the Respondents/Railways (that result of the considerations were sent under Certificate of posting) is also not acceptable; especially when notices (of verifications) were sent to the Applicants (of C.P.Nos.05,06 & 07/2009) by Registered Post. Mr.H.K.Das has argued that since the stand of the Railways is that the cases of the Applicants (of the present case) were, stated to have received consideration, then there would be no difficulty for the committee (that considered the cases of the Applicants in C.P.Nos.05, 06 & 07/2009) to review the same in presence of the Applicants and with Reference to the documents to be made available by them.



Contd/-

Contd/-

10.09.2009

Received Copy
Sri Malin Das
Applicant
11/09/09

Copies of order
dated 10/09/2009
sent to D/Sec.
for issuing to
respondents by
post.

Free copies of
this order also
issuing to L/Counsel
for both the parties.
D/No - 1267 - 1269

Ch
11/09/09 Dt. 15/9/09

1/10/09

A/D Card received
from Respt. No 3.

Doni
11/10/09

/lm/

Written objection
billed by the parties.

23/10/09

23.10.09
Reply to the Rejoinder
has been filed by the
Respondents through Dr. J.L.
Sarkar, Rly Counsel.
Copy served.
23/10/09

3. Heard. While granting liberty to Dr. Sarkar to file additional statements (as aforesaid), without prejudice to the rival claims of the parties (to be examined, finally in this case) and notwithstanding pendency of this case, the Respondents are directed to place the matter before the Committee of officials (who were examining the cases of other similarly situated Casual Labours seeking their entry to regular Establishment of Railways in C.P.Nos.05,06 & 07/2009) to consider the cases of such of the present Applicants who shall approach (the said Committee (within this September, 2009) for consideration of their cases. Official Respondents should do needful immediately.

4. Call this matter on 26.10.2009.

5. Send copies of this order to the Respondents. Free copies be also supplied to the Advocates Mr.H.K.Das & Dr.J.L.Sarkar.

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

OA. 155/09

-5-

26.10.2009

The question which arises for consideration in these two O.A.s, is whether the Applicants are entitled for regularization as prayed for as per judgment and order dated 14.06.2007 passed by this Tribunal in O.A. No. 281 of 2005, as up-held by Hon'ble High Court dismissing the Writ Petition filed by the Railways, namely; W.P.(C) No.6201/07 dated 10.12.2007. On the other hand, Dr.J.L.Sarkar, learned counsel for the Respondents contends that Applicants are not entitled to any other benefits.

Reserved for orders.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

29.10.2009

Judgment pronounced in open court.

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

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

11-11-2009
Common Judgment
Order dated 23rd
Oct, 2009 has been
Prepared and send
to D/Seky for
issuing to the
Respondents by Regd. Post
Free Copies of the
both Side Standing
counsel by hand.
D/ No —
Dated —

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :**

O.A. Nos.154 and 155 of 2009

DATE OF DECISION : THIS IS THE 29TH DAY OF OCTOBER, 2009.

**THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)**

1. Sri Rupen Boro, S/o Sri Ramesh Boro
2. Sri Gwijnlai Basumatary, S/o Sri J.C. Basumatary
3. Smt Joymati Boro, D/o late Umesh Boro
4. Sri Lalit Rajbongshi, S/o Sri Suku Rajbongshi
5. Sri Dilip Barman, S/o Sri Mahendra Barman
6. Sri Akhil Hujuri, S/o Sri Chandra Kt. Hujuri
7. Sri Naresh Rai, S/o Sri Anadi Roy
8. Sri Anjan Kalita, S/o Sri Ghanashyam Kalita
9. Sri Sabjib Das, S/o Sri Nabin Das
10. Sri Manoj Rai, S/o Sri Ram Adhin Rai
11. Sri Upendra Thakur, S/o Sri Ram Laxhan Thakur
12. Sri Mohan Roy, S/o Ram Lagan Roy
13. Sri Hari Chandra Roy, S/o Late Mahesh Roy
14. Sri Dilip Kumar Yadav, S/o Sri Phulchand Yadav
15. Sri Gourishankar Sah, S/o Sri Ramchandra Sah
16. Sri Milan Roy, S/o Late Mahesh Roy
17. Sri Baban Yadav, S/o Sri Ramlagan Yadav
18. Sri Gopal Hujuri, S/o
19. Sri Jadab Bhuyan, S/o Sri Ghameswar Bhuyan
20. Sri Mukesh Thakur, S/o Sri D. Thakur
21. Sri Dilip Dutta, S/o Sri Upendra Dutta
22. Sri Gagan Tamuli, S/o Sri Jatin Tamuli
23. Sri Pinku Das, S/o late Guna Das
24. Sri Karuna Kt. Mandal, S/o Brindaban Mandal
25. Sri Dharmendra Boro, S/o late Sarat Boro
26. Sri Hittar Koach, S/o Sri S.N. Koach
27. Sri Sanjay Kr. Musahari, S/o late J. Musachari
28. Sri Panendev Sutradhar, S/o Sri Kiran Sutradhar
29. Sri Hemo Mili, S/o Sri B. Mili
30. Sri Hiranya Bori, S/o Sri K. Bori
31. Smt. Alashi Muchahari, d/o Sri Soniram Muchahari
32. Sri Jitu Das, S/o Sri Phatik Ch. Das
33. Sri Surman Ali, S/o Md. Mantaj Ali
34. Sri Gopal Nandi, S/o Sri S. Nandi
35. Sri Jogeswar Haloi, S/o Sri Pabin Haloi
36. Sri Gautam Barman, S/o Sri Lakhi Barman
37. Sri Gagan Tamuli, S/o Sri Jatin Tamuli
38. Sri Bhupen Das, S/o Sri S.R. Das
39. Sri Prasanta Sen Saikia, S/o Ramani Sen Saikia
40. Sri Madhuram Deka, S/o Sri P. Deka
41. Smt. Pratima Basumatary, d/o K.L. Basumatary
42. Sri Prabin Deori, S/o Jagat Deory
43. Sri Omprakash Gupta, S/o I. Gupta
44. Sri Abdul Hussain, S/o Mahamad Ali

45. Sri Nagen Tamuli, S/o Sri Abhoi Tamuli
46. Sri Bhabesh Tamuli, S/o Tarani Tamuli
47. Sri Haladhar Daimary, S/o Mahiram Daimary
48. Sri Hemen Tamuli, S/o Soneswar Tamuli
49. Sri Phulen Kherkatary, S/o Jadab Kherkatary
50. Sri Biswajit Ramchhiyary, S/o Babul Ramchhiyary
51. Sri Arun Boro, S/o Sri S. Boro
52. Sri Bhabananda Das, S/o Haricharan Das
53. Sri Tilok Boro, S/o Sri Jali Ram Boro
54. Sri Dipak Ch. Boro, S/o Chatanya Boro
55. Sri Simanta Rabha, S/o Sita Ram Rabha
56. Sri Umashankar Sah, S/o Ramchandra Sah
57. Sri Samir Mandal, S/o Soni Mandal
58. Sri Haricharan Boro, S/o Nepal Boro
59. Sri Monindra Haloi, S/o Bhairab Haloi
60. Sri Jyotish Das, S/o Migendra Ch. Das
61. Sri Dilip Dutta, S/o Upendra Dutta
62. Sri Gwshar Kr. Basumatary, S/o Babul Basumatary
63. Sri Kamal Boro, S/o Sri Khawa Ram Boro
64. Sri Haricharan Das, S/o Lt. Suren Das
65. Sri Suresh Harizon, S/o Hamraj Harizon
66. Sri Kulajit Das, S/o Uddab Das
67. Sri Bhaben Tamuli, S/o Umesh Tamuli
68. Sri Kabiram Muchahari, S/o Umananda Muchahari
69. Sri Gaurisankar Sah, S/o Ramchandra Sah
70. Sri Ratan Mandal, S/o Brindaban Mandal
71. Sri Shailesh Kumar, S/o Suraj Roy
72. Sri Mahesh Kumar, S/o Suresh Roy
73. Sri Harindar Roy, S/o Lt. Mahesh Roy
74. Sri Akshya Talukdar, S/o Ramani Talukdar

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

..... Applicants in O.A. 154 of 2008

By Advocate : Mr. H.K. Das, Advocate.

-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. Railways
Alipurduwar - 736123.

..... Respondents

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

1. Sri Dinanath Yadav, S/o Badari Yadav
2. Sri Madhu Ram Kalita, S/o Rupeswar Kalita
3. Sri Bishy Yadav, d/o Baiju Yadav
4. Sri Ganesh Raj, S/o Yogendra Rai
5. Sri Rukma Rabha, S/o Haridhan Rabha
6. Sri Dwipen Rabha, S/o Praneswar Rabha
7. Sri Bikash Das, S/o Lakshi Ram Das
8. Sri Jayanta Kalita, S/o Jogesh Ch. Kalita
9. Sri Bolo Ram Das, S/o Bali Ram Das
10. Sri Paban Das, S/o Hiren Das
11. Sri Chandan Nath, S/o Sova Ram Das
12. Sri Dipak Ch. Das, S/o Kali Ram Das
13. Sri Bhabananda Das, S/o Gobinda Das
14. Sri Durga Rajbhar, S/o Mahesh Rajbhar
15. Sri Amarjit Paul, S/o S.R. Paul
16. Sri Anjali Das, S/o Bali Ram Das
17. Sri Megha Sarkar, S/o Anukul Sarkar
18. Sri Paban Das, S/o Swijen Das
19. Sri Rajib Das, S/o Sridhar Das
20. Sri Samsul Ali, S/o Siddik Ali
21. Sri Lalan Choudury, S/o Niranjan Choudhury
22. Sri Brojen Kr. Das, S/o Ananda Ram Das
23. Sri Jitumoni Saikia, S/o Purnananda Saikia
24. Sri Jeherul Islam, S/o Md. Abdul Kuddus
25. Sri Beba Kanta Das, S/o Dandi Ram Das
26. Sri Dhiraj Das, S/o Uddhab Das
27. Sri Anjan Kalita, S/o Ghanashyam Kalita
28. Sri Dilip Kalita, S/o Guda Kalita
29. Sri Gautam Kalita, S/o Prafulla Kalita
30. Sri Prafulla Rajbongshi, S/o Durga Rajbongshi
31. Sri Umesh Ch. Das, S/o M.R. Das
32. Sri Anil Das, S/o K.M. Das
33. Sri Dhiren Das, S/o P.K. Das.

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

..... Applicants in O.A. 155 of 2008

By Advocate : Mr. H.K. Das, Advocate

-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)
Bongaigaon Division, N.F. Railways
Bongaigaon - 783 380.

..... Respondents

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

[Handwritten signature]


ORDER29.10.2009MR MADAN KUMAR CHATURVEDI, MEMBER (J)

Both these O.A.s rotate around the identical issues. For the sake of convenience these are consolidated and disposed of by a common order. The Applicants makes a prayer to direct the Respondents to scrutinize the case of the Applicants and to consider their cases for appointment against Group D post as has been done in the case of similarly situated employees. It was also prayed that Applicants be allowed to appear in the interview for the said post.

2. Adverting to facts, the Applicants claims to be ex casual workers under Railways. All of them stated to be engaged on or before 1984 and worked at various places. During their service tenure requests was made to the concerned authority for their conversion to regular employment. Thereafter case was taken before the Central Administrative Tribunal. Tribunal directed the Railway authority to consider the case by constituting responsible Committee.

3. Mr H.K.Das, learned counsel for the Applicants submitted before us that the Railway authority has issued call letters to some of the similarly situated persons for consideration of their claim for regularization as per the directions of the Tribunal. But the applicants in question though similarly placed were not called for interview.

4. Dr J.L.Sarkar, learned Standing counsel for Railways submitted that the order of the Tribunal dated 02.08.2007 rendered in O.A.209/07 was duly complied with. In this connection letter addressed



to Shri Rupen Boro bearing No.E/255/12(E)AP-Pt.III dated 4.6.2008 was placed before us. This letter reads as under:

"It is hereby informed you that, in compliance of CAT/GHY's order dated 02.08.07 in the above captioned OA, a committee of three Senior Officers of APDJ Division/N F Railway scrutinized your representation which has been submitted to this office.

On careful examination of your representation and the records of this office the committee found that your name does not exist in the Live Casual Labour Register maintained by this office for keeping record of discharged casual labour.

Since your name does not exist in the Live Casual Labour Register of this division, the committee did not found necessary to give you a personal hearing which was also not requested by you in the representation.


Considering the above facts, documents, provision of rules, the committee did not found fit to consider your case for absorption in Gr.D post in APDJ Division.

The committee disposed off the matter on 12.05.08.

It has been issued with the approval of competent authority."

5. Explaining the modus operendi learned Standing counsel submitted that in the Railways Live Register is maintained incorporating therein the names of all casual Mazdoors in order of seniority. Names of discharged employees are also recorded in the said register, and future vacancies in Group D posts are filled up from this Live Register and the persons whose names figured in the Live Register is to be given preference.

6. Mr H.K.Das, stated that Applicants were engaged as casual labour at different point of time by the Respondents. They have expressed their willingness for being appointed against any Group 'D' post. It was the duty of the Respondents to take necessary steps for



considering the case of the applicants for such appointment. The pick and choose method adopted by the respondents in this connection has resulted discrimination in the matter of public employment. According to learned counsel it was the legitimate right of the applicants to appear before the interview Board. By not calling them in the interview respondents denied the principles of natural justice. It was further stressed that similarly placed persons were called for interview and the applicants were deprived of opportunity of being considered for the post.

7. We find that vide O.A.209/07 the Tribunal directed the applicants to file comprehensive representation individually within a period of one month from the date of receipt of the order. On the basis of such representation the Divisional Railway Manager (DRM) or any other competent authority was directed to consider and dispose of the same. Mr Das further submitted that Tribunal in O.A.197/07 directed the Respondents to dispose of the representation submitted by the applicants in the light of the direction issued in order dated 14.6.07 rendered in O.A.281/05. The respondents thereafter challenged the order dated 14.6.07 passed in O.A.281/05 before the Hon'ble Gauhati High Court by way of filing Writ Petition (Civil) No.6157/07. Hon'ble High Court dismissed the Writ Petition and observed that the petitioners have failed to consider the case of the applicants in accordance with the Live/Supplementary Live Casual Labour Register maintained by them and further directed the petitioners to/ comply with the order of the Tribunal within the time frame as specified therein. The Tribunal while passing the order dated 2.8.07 in 197/07



(Rupen Boro & Ors.) very clearly stated to consider the case of the applicants in accordance with the order passed in O.A. No.281/05, 261/06, 262/06 and 263/06. Thereafter the respondents made a move at a belated stage to comply with the common order of the Tribunal dated 14.06.07 passed in O.A.No.281/05 and other cases by constituting a committee for giving personal hearing to the applicants.

8. Learned counsel stated that original of the Live Casual Labour Register is missing and only some extract of Xerox copies are on record. Therefore, the stand of the respondents in the present proceeding that the names of the applicants do not appear in the Live Casual Register and for which they are not entitled for personal hearing before the responsible Committee is not correct.

9. We have heard the rival submissions in the light of material placed before us and precedents relied upon. It was not explained before us as to why the names of the applicants were not recorded in the Live Casual Labour Register. The fact that all the applicants are ex-casual worker under Railway and all of them were engaged on or before 1984 and they worked in various places under Bongaigaon Division as Khalashi, was not specifically disputed. The Live Casual Labour Register was not placed before us. It is also not clear whether applicants did make any representation within the specified time before the concerned authorities by producing the documents like engagement letter, copy of discharged letter, copy of ex-casual labour card, certificate of date of birth, Educational certificate, Caste certificate, Identity Card etc. We, therefore, in the interest of

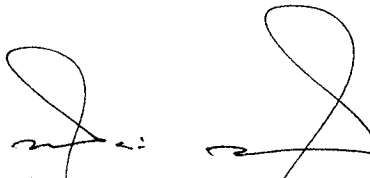
d.

justice direct the applicants to file comprehensive individual representation along with the relevant details before the Respondent No.3 or any other competent authority within one month from the date of receipt of this order. On the basis of such representation respondents are directed to consider and to pass appropriate orders communicating the same to the applicants within a period of four months from the date of receipt of individual representation.

The O.As are disposed of accordingly. There shall be no order as to costs.



(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER



(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

/pg/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O.A. No. 155 of 2009

BETWEEN

Sri Dinanath Yadav & Ors. Applicants.

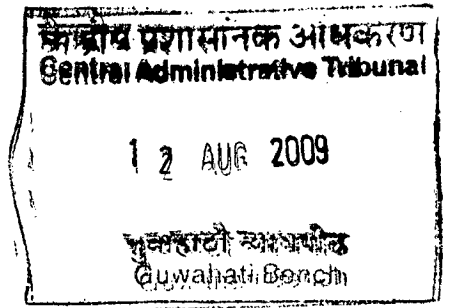
AND

Union of India & ors. Respondents.

SYNOPSIS

The applicants are ex-casual worker under Railway. All of them were engaged on or before 1984. They worked in various places under Bongaigaon Division as Khalasi. The applicants during their service tenure made request to the concerned authority for their conversion to regular employee but the respondents did not pay heed to their legitimate demand, situated thus the applicants had to approach the Hon'ble Tribunal by filing O.A. 209/2007. The Hon'ble Tribunal while disposing the said O.A. directed the Railway authority to consider their cases by constituting responsible committee. Recently the Railway authority has issued call letters to some of the similarly situated persons for consideration of their claim for regularisation as per the directive of the Learned Tribunal. But the present applicant are though similarly situated fail to get such call letter. Hence the applicants have come before the tribunal seeking redressal of their grievances.

R
Blaw.
12/8/09
For Dr. J. L. Sankar
SC Railway



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Title of the case :

O.A. No. 155 of 2009

BETWEEN

Shri Dinanath Yadav & Ors. Applicants.

AND

Union of India & ors. Respondents.

LIST OF DATES

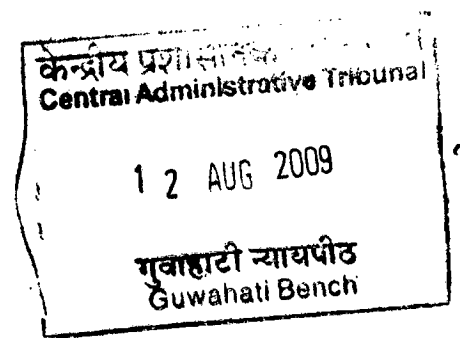
1. 1984..... Initial date of engagement
2. 2.8.07..... Judgment passed in O.A. No. 209/07
3. 14.6.07..... Judgment passed in O.A. No. 281/05
4. 17.7.09..... Date of issue of call letter.
5. 17th,18th,19th of August 2009..... Date of interview

Filed by : *Bomeloma Sui*

Regn.No.:

File : WS7/Rupen

Date : 12.8.09



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Title of the case :

O.A. No. 155 of 2009

BETWEEN

Shri Dinanath Yadav & Ors. Applicants.

AND

Union of India & ors. Respondents.

I N D E X

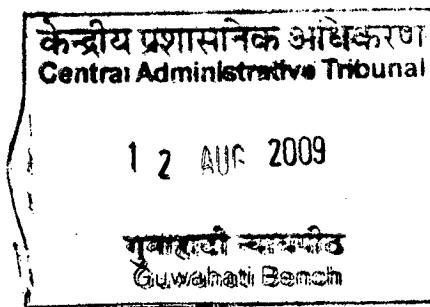
Sl.No.	Particulars	Page No.
1.	Application	1 to 11
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5.	Annexure-3	40

Filed by : *Banclama Devi*

Regn.No.:

File : WS7/dinanath

Date : 12.8.09



Filed by:-
The Applicant
through
Bondana Devi
Advocate
12.8.09 25

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

(An application under section 19 of the Central Administrative Tribunal Act, 1985)

O.A. No. 155 of 2009

Between

1. Sri Dinanath Yadav, s/o Badari Yadav,
2. Sri Madhu Ram Kalita, s/o Rupeswar Kalita.
3. Sri Bishny Yadav, d/o Baiju Yadav.
4. Sri Ganesh Rai, s/o Yogendra Rai.
5. Sri Rukma Rabha, s/o Haridhan Rabha.
6. Sri Dwipen Rabha, s/o Praneswar Rabha
7. Sri Bikash Das, s/o Lakshi Ram Das
8. Sri Jayanta Kalita, s/o Jogesh ch. Kalita.
9. Sri Bolo Ram Das, s/o Bali Ram Das.
10. Shri Paban Das, s/o Hiren Das.
11. Sri Chandan Nath, s/o Sova Ram Nath.
12. Sri Dipak Ch. Das, s/o Kali Ram das.
13. Sri Bhabananda Das, s/o Gobinda Das.
14. Sri Durga Rajbhar, s/o Mahesh Rajbhar.
15. Sri Amarjit Paul, s/o S. R. Paul.
16. Sri Anjali Das, s/o Bali Ram Das.
17. Sri Megha Sarkar s/o Anukul Sarkar.
18. Sri Paban Das. s/o Swijen Das.

Dina nath yadav

R
12/8/09
For Dr. J.L. Sonker
S.C. Railways

12 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

19. Sri Rajib Das.s/o Sridhar Das.
20. Sri Samsul Ali. s/o Siddik Ali.
21. Sri Lalan Choudhury. s/o Niranjana Choudhury.
22. Sri Brojen Kr. Das.s/o Ananda Ram Das.
23. Sri Jitumoni Saikia. s/o Purnananda Saikia.
24. Sri Jeherul Islam. s/o Md.Abdul Kuddus.
25. Sri Deba Kanta Das. s/o Dandi Ram Das.
26. Sri Dhiraj Das. s/o Uddhab Das.
27. Sri Anjan Kalita. s/o Ghanashyam Kalita.
28. Sri Dilip Kalita. s/o Guda Kalita.
29. Sri Gautam Kalita. s/o Prafulla Kalita.
30. Sri Prafulla Rajbongshi, s/o Durga Rajbonshi.
31. Sri Umesh Ch.Das, S/o M.R.Das.
32. Sri Anil Das, s/o K.M.Das.
33. Sri Dhiren Das, s/o P.K.Das.

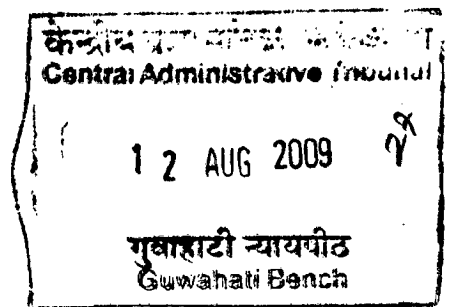
All Ex-Casual Labourers in the Bongaigaon
Division, (BB/CON), N.F.Railway

... Applicants.

- AND -

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)
Bongaigaon Division, N.F.Railways,
Bongaigaon. - 783380

..... Respondents

DETAILS OF APPLICATION

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

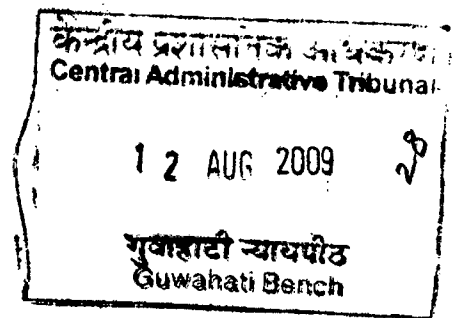
This application is directed against the inaction on the part of the respondents in ignoring the cases of the applicants towards scrutinisation of their cases by constituting a Responsible Committee for granting the benefit of regularisation in terms of the policy decision adopted by them, whereas similarly situated persons have been issued with call letters for scrutinisation of their cases .

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.



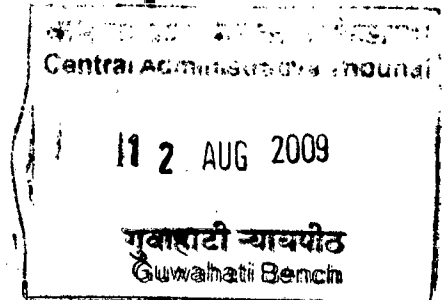
4. FACTS OF THE CASE

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 services 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.

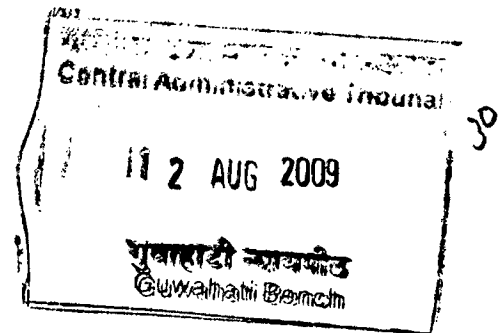
4.3. That the applicants who belong to the most economically backward sections of the society, discharged their duties under the Respondents without any blemish from any quarter and from the earning so derived by them they some how managed to maintain



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 orders 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 practice 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 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-D vacant posts, it was the duty of 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 /discrimination in the matter of public employment.

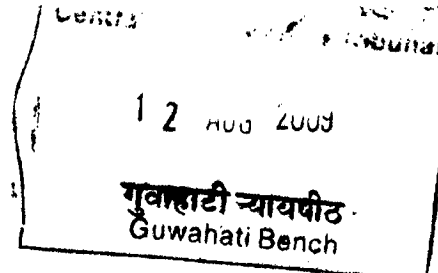


4.6. That your applicants state that aggrieved by the action of the Respondents for non-consideration of the cases of the applicants, the applicants preferred original application No.209/07, praying for a direction towards the Respondents to consider their cases for any Group-D post and to appoint them 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.

The applicants state that the Hon'ble Tribunal after hearing both the parties was pleased to dispose of the said OA vide judgment and order dated 2.8.07 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 and after filing such representations the respondents shall examine their cases in the light of the judgment and order dated 14.6.07 passes in OA NO. 281/05 and Ors.

copies of the judgments and orders dated 2.8.07 and 14.6.07 are annexed herewith and marked as ANNEXURE-1 and 2.

4.7. That the applicants immediately after the pronouncement of the aforesaid judgment dated 2.8.07 submitted representations before the concern authority but the railway administration though initially took some initiative for carrying out the order of the Hon'ble, Tribunal but due lack of co-ordination between the various wings of Railway the plan could not materialise. Now the Respondents have initiated the process

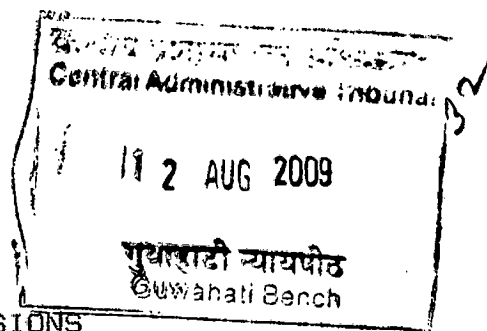


of scrutinisation of the cases of the applicants in OA NO.281/05 and Ors and for the said purpose interview is going to be held on 17th, 18th and 19th of August 2009, by constituting a responsible committee and also issued call letters to those applicants for the said purpose. Though the present applicants before Your Lordships are similarly situated persons and the Hon'ble Tribunal while disposing their OA No.197/07 directed to consider their cases in the same line, in the light of the judgment and order dated 14.6.07, the respondents have not issued call letters to the present applicants. Situated thus the present applicants had to approach this Hon'ble Tribunal praying for a direction towards the respondents for issuing call letters, so that their cases may also be considered along with the other similarly situated persons who have already got their call letters.

A copy of one such call letter dated 17.7.09 is annexed herewith and marked as Annexure- 3.

4.8. That the applicants beg to state that they are similarly situated ex-casual workers to those of the applicants in OA No.261/06, 262/06 263/06. But the respondents have issued call letters in pick and choose basis ignoring the claim of the present applicants.

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



5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

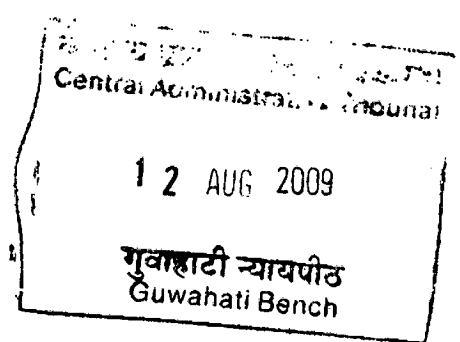
5.1. For that the action of the respondents in not issuing the call letters to the present applicants is illegal, arbitrary and violative of natural justice hence same are liable to be interfered with.

5.2. For that the procedure adopted by the Respondents in issuing call letters in pick and choose basis ignoring the cases of the present applicants and therefore said action/inaction is not at all sustainable in the eye of law.

5.3. For that the impugned action on the part of the respondent authorities in denying to the applicants their legitimate right to appear in the interview 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.

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 they are not aware of their rights. All of them being members of ST community are entitled to special privileges.



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

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:

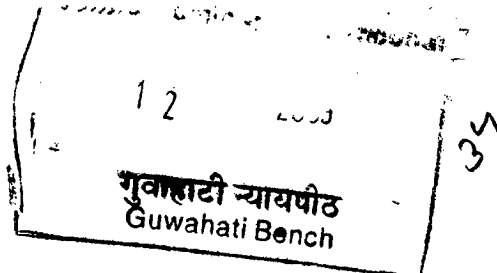
The applicants declare that they have no other alternative and efficacious remedy except by way of filing this application.

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



applicants pray 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 direct the respondents to issue call letters to the present applicants and thereby to allow them to appear in the interview going to be held on 17th, 18th and 19th of August 2009.

8.2. To direct the Respondents to scrutinize the cases of the applicants and thereby to consider their cases for appointment against Group-D posts as has been done in case of similarly situated employees.

8.3. Cost of the application.

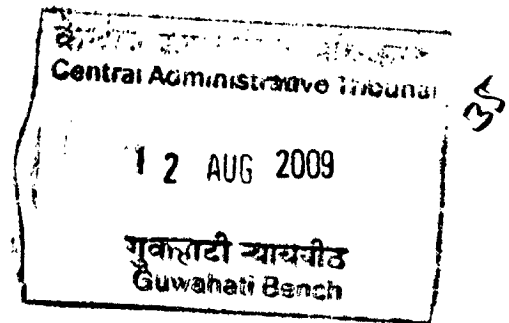
8.4. Any other relief/reliefs that the applicant may be entitled to.

9. INTERIM ORDER PRAYED FOR:

The applicants pray for an interim direction to the respondents not to hold any interview without first issuing call letters to the applicants till finalization of this OA.

10.

The application is filed through Advocate.

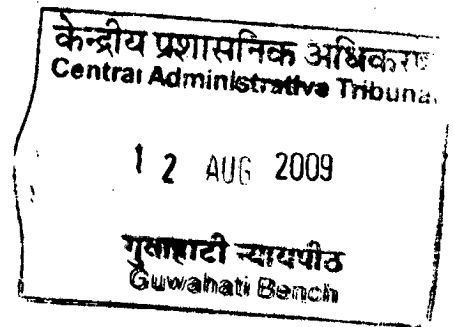


11. PARTICULARS OF THE I.P.O.

- (i) I.P.O. No.: 396 418530
(ii) Date: 12.8.09
(iii) Payable at: Guwahati

12. LIST OF ENCLOSURES:

As stated in the Index.



VERIFICATION

I, Shri Dinanath Yadav, aged about 36 years, son of Badari Yadav, presently residing at Village Auguri (2 No Udmori P.O. Amlighat, Dist-Morigaon Assam, do hereby solemnly affirm and state that the statement made in this petition from paragraph 4.3, 4.4, 4.5 are true to my knowledge and those made in paragraphs 4.6, 4.7, 4.8 are matters records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

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

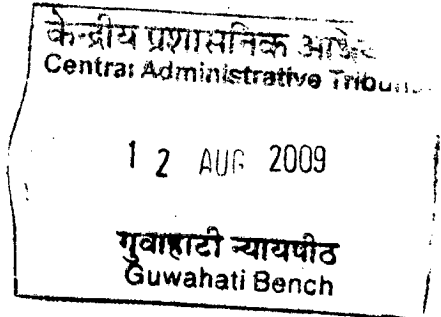
And I sign this verification on 12th day of Aug-2009.

Dina nath Yadav
Signature

13- Ammexure-1 3A

THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH



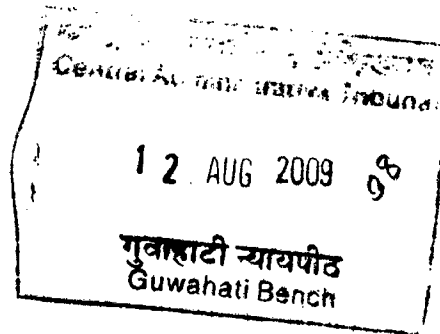
Original Application No. 209 of 07

Between

1. Sri Dinanath Yadav, s/o Badari Yadav,
2. Sri Madhu Ram Kalita, s/o Rupeswar Kalita.
3. Sri Bishny Yadav, d/o Baiju Yadav.
4. Sri Ganesh Rai, s/o Yogendra Rai.
5. Sri Rukma Rabha, s/o Haridhan Rabha.
6. Sri Dwipen Rabha, s/o Praneswar Rabha
7. Sri Bikash Das, s/o Lakshi Ram Das
8. Sri Jayanta Kalita, s/o Jogesh ch. Kalita.
9. Sri Bolo Ram Das, s/o Bali Ram Das.
10. Shri Paban Das, s/o Hiren Das.
11. Sri Chandan Nath, s/o Sova Ram Nath.
12. Sri Dipak Ch. Das, s/o Kali Ram das.
13. Sri Bhabananda Das, s/o Gobinda Das.
14. Sri Durga Rajbhar, s/o Mahesh Rajbhar.
15. Sri Amarjit Paul, s/o S. R. Paul.
16. Sri Anjali Das, s/o Bali Ram Das.
17. Sri Megha Sarkar s/o Anukul Sarkar.
18. Sri Paban Das. s/o Swijen Das.
19. Sri Rajib Das. s/o Sridhar Das.

Verified to be true Copy

[Signature]
Advocate



20. Sri Samsul Ali. s/o Siddik Ali.
21. Sri Lalan Choudhury. s/o Nirranjan Choudhury.
22. Sri Brojen Kr. Das. s/o Ananda Ram Das.
23. Sri Jitumoni Saikia. s/o Purnananda Saikia.
24. Sri Jeherul Islam. s/o Md. Abdul Kuddus.
25. Sri Deba Kanta Das. s/o Dandi Ram Das.
26. Sri Dhiraj Das. s/o Uddhab Das.
27. Sri Anjan Kalita. s/o Ghanashyam Kalita.
28. Sri Dilip Kalita. s/o Guda Kalita.
29. Sri Gautam Kalita. s/o Prafulla Kalita.
30. Sri Prafulla Rajbongshi, s/o Durga Rajbonshi.
31. Sri Umesh Ch. Das, S/o M.R. Das.
32. Sri Anil Das, s/o K.M. Das.
33. Sri Dhiren Das, s/o P.K. Das.

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

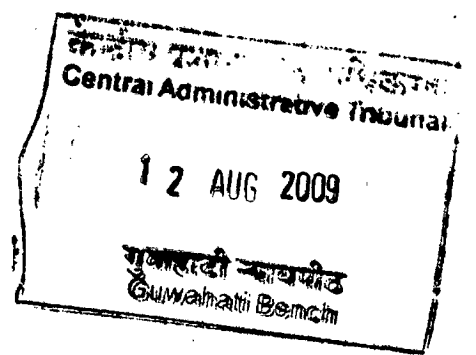
... Applicants.

By Advocate Ms. B. Devi & Mr. H.K. Das

-Vs -

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)
Bongaigaon Division, N.F.Railways,
Bongaigaon.

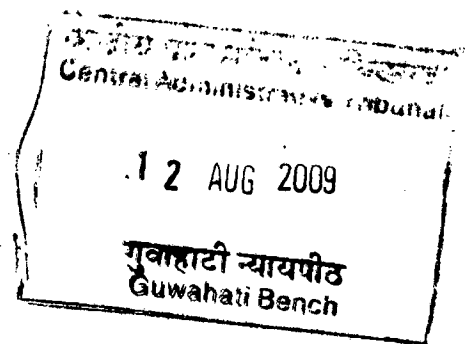
..... Respondents

By Dr.J.L. Sarkar, Railway Standing Council.

O R D E R (ORAL)

SACHIDANANDAN, K.V. (V.C.)

The applicants, 33 in numbers, are ex. casual workers under N.F. Railway. Their claims is that they are engaged by the respondents way back on or before 1984. According to them they worked in various places under Bongaigaon Division as khalasi. While working as such, the applicant made request before the concerned authority for their regularisation and accordingly the said authority too up their cases for conversion to regular employee by granting temporary status to them as per law. But all of a sudden the respondents instructed the applicants not to attend the office any more. The applicants claimed that as per rule the respondents are bound to maintain a live register of the casual and ex-casual workers, to provide work as per their seniority. But it appears that the respondents are not strictly following the same. As a result of non maintenance of such register the applicants are deprived of any regular work and their due claims of regularisation. Being aggrieved by the such inaction on the part of the respondents the applicants have filed this OA under Rule 4(5)(a) of the CAT(Procedure) Rules, 1987 seeking the following main relief.



B.1. To direct the Respondents to appoint the applicants against Group-D posts as has been done in case of similarly situated employees.

2. Heard Ms. B.Devi learned counsel appearing for the applicants and Dr.J.L.Sarkar , learned Standing counsel for the Railways.

3. When the matter came up for consideration Ms. B.Devi, learned counsel for the applicants submitted that she will be satisfied if the applicants are directed to submit comprehensive representation individually before the respondents No.3 and upon receipt of the same the said respondent may be directed to consider and dispose of th same in the light of the order dated 14.6.07 passed in identical OA NO.281/2005 and other OAs by passing appropriate order within a time frame. Dr.J.L.Sarkar submitted respondents would have no objection in adopting such course of action since certain direction have already been issued in identical OA No.281/2005 and other OAs to the respondents to consider the cases of the applicants' therein by constituting a responsible committee.

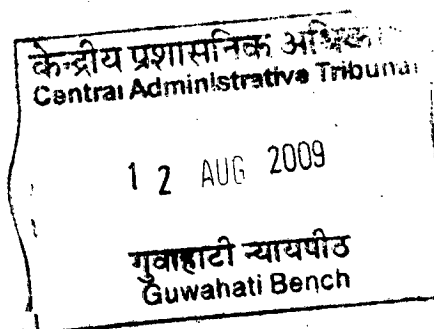
4. Accordingly (in the interest of justice the applicants are directed to file comprehensive representation individually along with copies of this order and the OA with all Annexures before the respondent No.3 within a period of one month from the date of receipt of this order . If such representations are filed the respondent No.3 or any other competent authority, shall consider and dispose of the same in the light of the direction issued in Annexure of order of the OA passed in identical OA

17-

No.281/05 and other OAs and pass appropriate orders communicating the same to the applicants within a period of 4 months from the receipt of the individual representation.

5. The Original Application is disposed of as above at the admission stage itself. In the circumstances, there shall be no order as to costs.

Sd/-VICE CHAIRMAN



18-
01/07/2007
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 1205/2007

Date of Order: This, the ~~Sunday~~ 01 August 2007

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN.

1. Sri Dinanath Yadav, S/o Badari Yadav

2. Sri Machu Ram Kalita, S/o Rupeswar Kalita

3. Sri Bishmy Yadav, d/o Baiju Yadav

4. Sri Ganesh Rai, S/o Yogendra Rai

5. Sri Rukma Rabha, S/o Haridhan Rabha

6. Sri Dwipen Rabha, S/o Praneswar Rabha

7. Sri Bikash Das, S/o Lakhi Ram Das

8. Sri Jayanta Kalita, S/o Jogesh Ch. Kalita

9. Sri Bolo Ram Das, S/o Jhali Ram Das

10. Sri Paban Das, S/o Hiren Das

11. Sri Chandan Math, S/o Sova Ram Math

12. Sri Dipak Ch. Das, S/o Kali Ram Das

13. Sri Bhabananda Das, S/o Gobinda Das

14. Sri Durga Rajbhar, S/o Mahesh Rajbhar

15. Sri Amarjit Paul, S/o S.R. Paul

16. Sri Anjali Das, S/o Balli Ram Das

17. Sri Megha Sarkar, S/o Anukul Sarkar

18. Sri Paban Das, S/o Swijen Das

19. Sri Rajib Das, S/o Sridhar Das

20. Sri Samsul Ali, S/o Siddik Ali

21. Sri Lalan Choudhury, S/o Niranjan Choudhury

22. Sri Brojen Kr. Das, S/o Ananda Ram Das

23. Sri Jitumoni Saikia, S/o Purnananda Saikia

24. Sri Jaberul Islam, S/o Md. Abdul Kader

25. Sri Jaba Ram Das, S/o Dandi Ram Das

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

12 2007

गुवाहाटी न्यायापीठ
Guwahati Bench



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26. Sri Bhiraj Das, S/o Uddhab Das.
27. Sri Anjan Kalita, S/o Ghanashyam Kalita.
28. Sri Dilip Kalita, S/o Guda Kalita.
29. Sri Gautam Kalita, S/o Prafulla Kalita.
30. Sri Prafulla Rajbongshi, S/o Durga Rajbongshi.
31. Sri Umesh Ch. Das, S/o K. Das.
32. Sri Anil Das, S/o K.M. Das.
33. Sri Bhiren Das, S/o P.K. Das.

12 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

All of them are Ex-Casual Labourers in the
Bongaigaon Division, (HB/CON), H.F. Railway.

Applicants

By Advocates Ms. B. Devi & Mr. H.K. Das

- Versus -

1. Union of India
Represented by the General Manager
H.F. Railway, Maligaon
Guwahati-781 011.
2. The General Manager (Construction)
H.F. Railway, Maligaon
Guwahati-781 011.
3. The Divisional Railway Manager (P)
Bongaigaon Division, H.F. Railways
Bongaigaon.

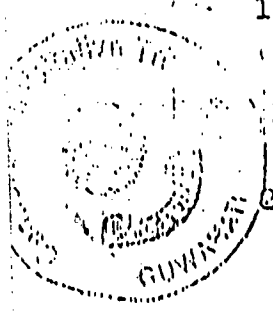
Respondents.

By Dr. J.L. Sarkar, Railway Standing Counsel

O R D E R. (ORAI)

SACHIDANANDAN, K.V. (V.C.)

The Applicants, 33 in number, are ex-casual
workers under H.F. Railway. Their claim is that they



12/06/2009

गुवाहाटी न्यायपीठ
Guwahati Bench

20
3
were engaged by the Respondents way back on or before 1984. According to them, they worked in various places under Bongaigaon Division as Kialasi. While working as such, the Applicants made request before the concerned authority for their regularisation and accordingly the said authority

took up their cases for conversion to regular employee by granting temporary status to them as per law. But all of a sudden the Respondents instructed the Applicants not to attend the office any more.

The Applicants claimed that as per rule the Respondents are bound to maintain a register of the casual and ex-casual workers to provide work as per their seniority. But it appears that the Respondents are not strictly following the same. As

a result of non-maintenance of such register, the Applicants are deprived of any regular work and their due claims of regularisation. Being aggrieved by the such inaction on the part of the Respondents,

the Applicants have filed this O.A. under Rule 4(5)(a) of the CAT (Procedure) Rules, 1987 seeking the following main relief:-

"3.1 To direct the Respondents to appoint the applicants against Group-D posts as has been done in

21-
employees

2. Heard Ms. B. Devi, learned counsel for the Applicants and Dr. J. L. Sarkar, learned Standing counsel for the Railways.

3. When the matter came up for consideration,

Ms. B. Devi, learned counsel for the Applicants

submitted that she will be satisfied if the

Applicants are directed to submit comprehensive

representation individually before the Respondent

No. 3 and upon receipt of the same the said

Respondent may be directed to consider and dispose

of the same in the light of the orders dated

14.06.2007 passed in identical O.A. No. 201/2005 and

other O.A.s by passing appropriate orders within a

time frame. Dr. J. L. Sarkar submitted that Respondents

would have no objection in adopting such course of

action since certain directions have already been

issued in identical O.A. No. 201/2005 and other O.A.s

to the Respondents to consider the representation of the

Applicants therein by constituting a Grievance

Committee.

4. Accordingly, in the interest of justice,

the Applicants are directed to submit comprehensive

केन्द्रीय प्रशासनिक आदेश
Central Administrative Tribunal

12 AUG 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

Representation individually along with the copies of this order and the O.A. with all the documents to the Respondent No.3 within a period of four months from the date of receipt of this order. If no representations are filed, the Respondent No.3 or any other competent authority, shall consider and dispose of the same in the light of the directions issued in Annexure-F order of the O.A. passed in identical O.A. No.231/2005 and other O.A.s and pass appropriate orders communicating the same to the Applicants within a period of four months from the receipt of the individual representation.

5. The Original Application is disposed of as above at the admission stage itself. In the circumstances, there shall be no order as to costs.

BY/ VICE CHAIRMAN



Date of Application : 28/7/09
 Date on which copy is ready : 30/7/09
 Date on which copy is delivered : 31/7/09
 Certified to be true copy

केन्द्रीय प्रशासनिक आयोग
 Central Administrative Tribunal

12 AUG 2009

गुवाहाटी बेंच
 Guwahati Bench

- 23 -

ANNEXURE-2

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.

By Advocate: Mr. B.Sarma

Applicants

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

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2009

गुवाहाटी न्यायाधीश
Guwahati Bench

Certified to be true Copy

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, Alipurduar.

Respondents

By Advocate: Mr. K.K. Biswas

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

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

All are ex-casual labourers working under the respondents.

Applicants

By Advocate: Mr. H.K. Sarma

Versus

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

Respondents

By Advocate: Mr. K.K. Biswas

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

1. Sri Suren Ramchary
2. Sri Ratan Boro.

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

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

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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

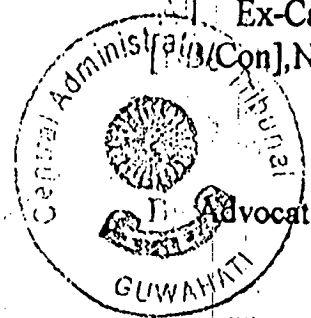
1. Sri Dhaneswar Rahang
2. Sri Lohit Ch. Boro.
3. Sri Rati Kanta Boro.
4. Sri Monorangen Dwaimary.
5. Sri Manteswar Boro.
6. Sri Joy Ram Boro.
7. Sri Haricharan Basumatary
8. Sri Durga Ram Daimary
9. Sri Sabjib Boro
10. Shri Khargeswar Swargiary
11. Sri Pradip Kr. Boro

C

12. Sri Ugen Narzary.
13. Sri Tarun Ch. Boro
14. Sri Ramesh Ch. Ramchiary
15. Sri Monoranjan Deori.
16. Sri Ram Nath Pathak.
17. Sri Gopal Basumatary.
18. Sri Malin Kr.Dus.
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

केन्द्रीय प्रशासनिक अधिकरण
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Guwahati Bench

Ex-Casual Labourers in the Alipurduwar Division
[at] (Con), N.F.Railway.



Advocate; Mr. H.K Sarnia

Applicants

Versus

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

Respondents

By Advocate: Mr. K.K.Biswas

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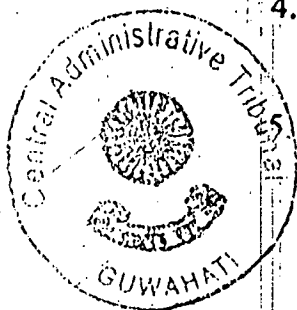
गुवाहाटी न्यायपीठ
Guwahati Bench

ORDER

K.V. Sachidanandan-Vice-Chairman:

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

1. To set aside and quash the impugned orders dated 18.1.04 and 16.3.05 as the same are in violation of the principles of natural justice and not sustainable in the eye of law.
 2. To direct the respondents to consider the cases of the applicants and appoint them against vacant Group 'D' posts available for filling up SC/ST backlog vacancies.
 3. To direct the respondents to keep the posts vacant for the applicants till consideration for appointment of the applicants.
 4. To direct the General Manager, N.F.Railway, Maligaon to issue necessary approval towards the appointment of the applicants.
- 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

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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

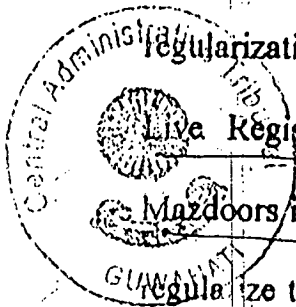
similarly situated Ex-Casual Labourers approached this Tribunal

by way of filing O.A. No. 79 of 1996. The Court directed the

Railway to consider their cases within a stipulated time. The

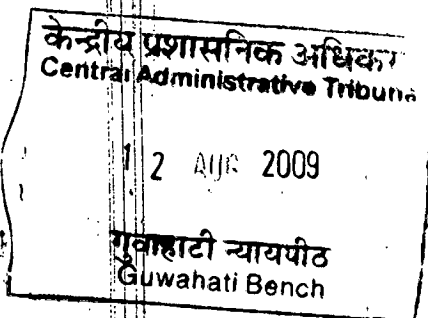
applicants of the said O.A. have been granted benefit of

Temporary Status. The case of the applicants is that though they



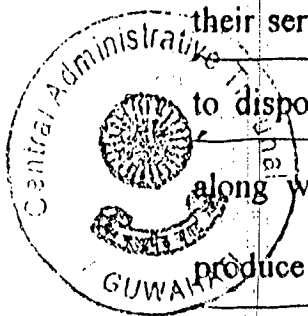
live Register

Similar O.A.



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.

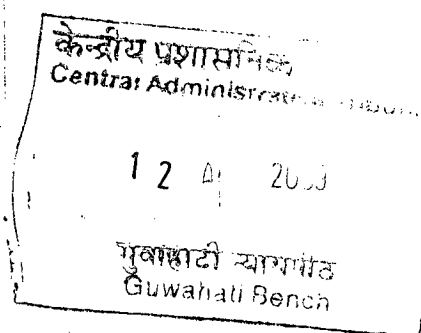
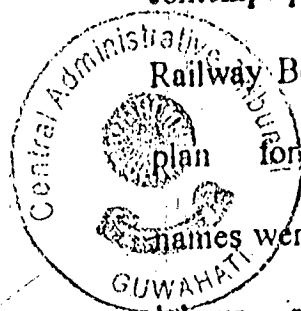
5. The respondents have filed a detailed reply statement contending that the records produced by the applicants were

earlier order

Rejected by Rly

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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 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.

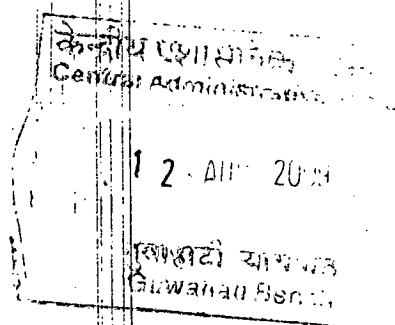
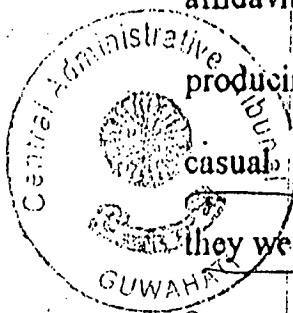


6. Casual Labour Card in terms of the instructions of the Ministry of Personnel, Public Grievances and Pensions, it is only kept for three years. In this case, the claim pertains to the year 1984, that is, more than 20 years. Annexure-2 is copy of such circular. After disposal of earlier OAs 255/03, 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.

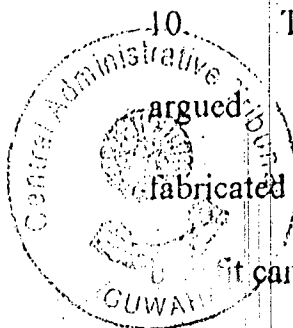
8. The respondents have also filed reply to the rejoinder again reiterating that the documents produced by the applicants are fake, fraudulent and their claims are not genuine.

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 Tribunal 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

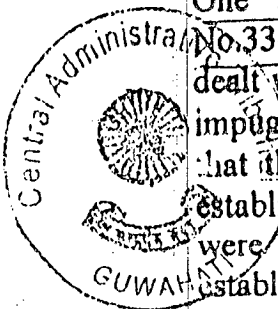
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337/04 and 338/04, by a Division Bench of this Court dated 19th July, 2005. The relevant portion of the said judgment is quoted below:

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



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For and on behalf of
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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/BC/CON, N.F. Railway, Bongaigaon to the Deputy Chief Engineer/CON, N.F. Railway, Jogighopa. It is stated therein that 483 surplus ex-casual labours had to be re-engaged and therefore after holding discussions with the relevant organization the letter is sent along with Xerox copies of the "Casual Labour Live Register" for suitable and necessary action by the Deputy Chief Engineer. Xerox copies of the said document are available in the records maintained by the Railways. From the above it can be assumed safely that the Xerox copies represent the original and it is maintained in the regular course of business of the Railways. It is surprising, when the Xerox copies of the casual labour live register along with the letter dated 5.1.1989 is in the records maintained by the Railways, how they could say in the written statement "For obvious reasons, these records could not be relied upon as authentic due to the fact that such materials are capable of being manipulated due to the high stakes involved." On this aspect, we do not want to make further observation which may eventually damage the reputation of the persons who made such bald statements



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

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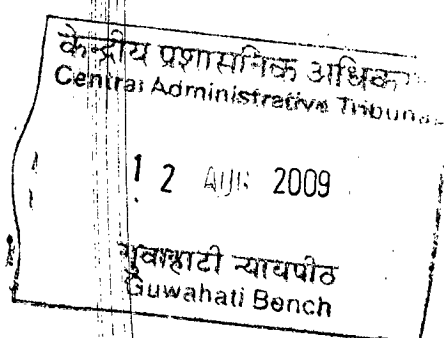
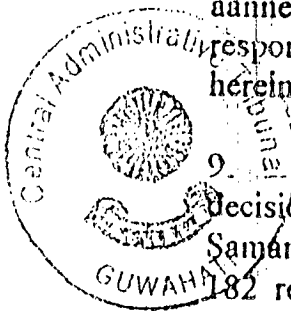
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336/2004 the earlier written statements filed by the Railways in OA 259/2002 and referred to in Annexure-5 judgment in OA 336/2004 the following observations occurs:-

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

As already noted, the only reason for rejecting the claim of the applicants is that the casual labour identify cards produced by the applicants the genuineness of which is doubtful. In the circumstances, as already discussed, the respondents are directed to consider the case of the applicants ignoring the identity cards and based on their own records namely, the Xerox copies of the casual labour live register, the documents with reference to which the earlier written statements were filed and extracted hereinabove and to take a decision in the case of the applicants in all the three cases afresh within a period of four months from the date of receipt of this order. For the said purpose, the impugned orders all dated 18.3.2004 [Annexure-7 in OA Nos.336/2004 and 338/2004 and annexure-11 in OA 337/2004] are quashed. The concerned respondent will pass reasoned orders on merits as directed hereinabove.

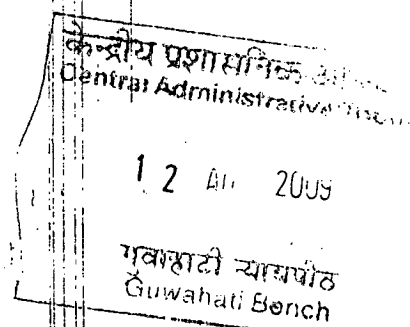
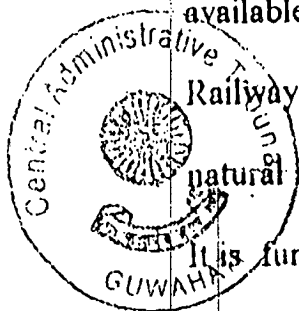
9. Before parting with, we would also like to refer to the Decision of the Hon'ble Supreme Court in Ratan Chandra Samanta & Ors. Vs. Union of India & Ors., 1994 SCC[L&S] 182 relied on by Dr. M.C.Sharma. The said decision was rendered in Writ Petition [civil] filed under Article 32 of the Constitution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



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

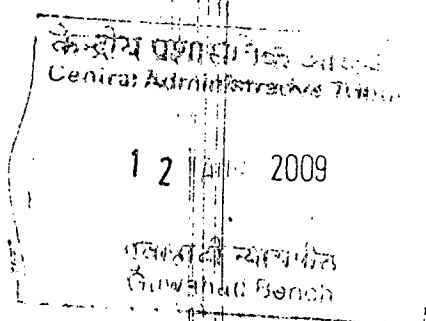
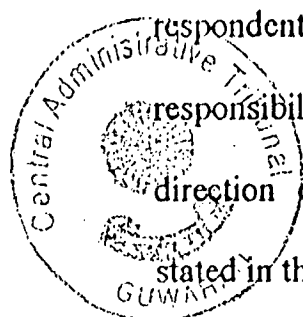
12. The clear finding of this Tribunal to the question as to whether Xerox copies can be relied upon is dealt with in para 6 of the judgment, as above. The Tribunal taking the decision of the Apex Court reported and discussed Supra in para 9 of the judgment, have come to the conclusion that the materials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

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



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Guwahati Bench

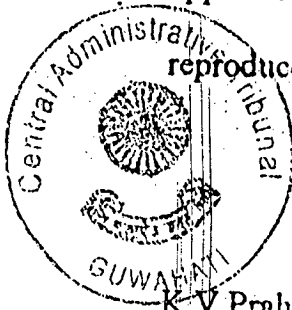
OAs. However, when the matter came up for hearing, the counsel for the applicants have taken my attention to the decision of this Tribunal in the case of Swapan Sutradhar and others vs. Union of India & others, O.A. No.203 of 2002, dated the 2nd June, 2004, wherein this Court has directed to re-examine 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

"ORDERK.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.

Employee
L.R. Sec. Sec.

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.

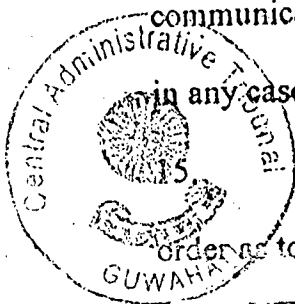
The application is accordingly disposed of. No order as to costs."

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.

The OAs are disposed of with the above directions. No

order as to costs.



34/ VICE CHAIRMAN

TRUE COPY

प्रतिरूपि

अनुभाय विचारारी

Section Officer (Judicial)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

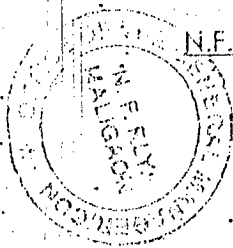
GUWAHATI BENCH

13/7

cm

13/7

40 - Annexure - 3
N.F. RAILWAY (Construction)



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

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

Date: 17-07-2009

To

Shri

Vill

P.O.

Dist.

Robin Daimary
Balakati (Sutia para)
Gurmow
Kamrap (Assam)
PIN-781366

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

12 AUG 2009

गुवाहाटी न्यायाधीश
Guwahati Bench

Sub: Implementation of orders dated 14-6-07
of CAT/GHY in OA No.281/2005, 261/2016,
262/2006 and 263/2006

In view of implementation of above order you are hereby advised to
attend for verification of the records on 19-8-09 at 10 hrs. in Old
Committee Room of GM/Con's office with following 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 certificate to be brought for
submission before the Committee.

(P.K.L. 17.07.09)
SPO/Con
For General Manager/Con
N.F. Railway, Maligaon
Guwahati-781011

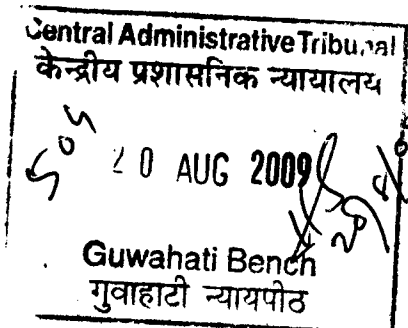
Certified to be true Copy

Advocate

Filed by: 1
The Applicants
through
Hdip. K. D. S.
Advocate
20.8.09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

OA No. 155/2009



BETWEEN

Dinanath Yadav and Others

APPLICANTS

-Versus-

Union of India and Ors

RESPONDENTS

REPLY TO THE WRITTEN OBJECTION

1. That a copy of written objection has been served upon the applicant. The applicant has gone through the same and under stood the contents thereof. The statements which are specifically admitted herein below, other statements made in the objection are categorically denied and the respondents are put to the strictest proof thereof.

2. That the applicants while denying the contentions made in Para 1 of the written objection and reiterating and reaffirming the statements made in the O.A. begs to state that there is no suppression of material facts or misstatement given in the original application. The applicants beg to state that Hon'ble Tribunal vide order dated 02.08.07 passed in O.A. No. 197/07 was pleased to dispose of the O.A. directing the respondents to dispose of the representations submitted by the applicants in the light of the directions issued in the order dated 14.06.07 passed in O.A. No. 281/05 and pass appropriate orders communicating the same to the applicant within a period of four months. However, the respondents sat over the matter and did not give an eye to the grievance and prayer made by the applicants, whereas the applicants were eagerly waiting for the considerations of their cases by the respondents. It is worthwhile to mention here that the respondents there after challenging the order dated 14.06.07 passed in O.A.

Dinanath yadav

R
20/8/09
For Dr. J.L. Sanjay
S.C. Railway

20 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

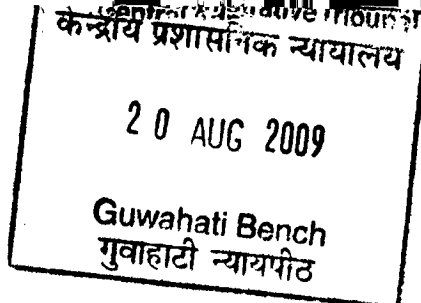
2

No. 281/05 and other cases approached the Hon'ble Gauhati High Court by way of filling WP(C) No. 6157/07. The Hon'ble High Court while dismissing the writ petition of the petitioners [respondents herein] observed that the petitioners have failed to consider the cases of the applicants in accordance with the Live/Supplementary Live Casual Labour Register maintained by them and further directing to comply with the order of the Learned Tribunal within the time frame specified therein. Even after dismissal of the writ petition by the Hon'ble High Court the respondents sat over the matter and did not act upon the order of the Hon'ble Tribunal dated 14.06.07 passed in O.A. No. 281/05 and other cases. Being aggrieved by the aforesaid inaction the applicants in O.A. No. 261/06, 262/06 and 263/06 preferred C.P. No. 5/09, 6/09 & 7/09 respectively and it is after receipt of the contempt notice the respondents wake up and has taken hasty steps towards compliance of the order of the Hon'ble Tribunal dated 14.06.07 issued the identical letters dated 17.07.09.

It is stated that the Hon'ble Tribunal while passing the order dated 02.08.07 passed in O.A. 197/07 [Rupen Boro & Ors] very clearly stated to consider the cases of the applicants in accordance with the order passed in O.A. No. 281/05, 261/06, 262/06, 263/06. Therefore, when the respondents made a move at a belated stage to comply with the common order of the Hon'ble Tribunal dated 14.06.07 passed in O.A. No. 281/05 and other cases by constituting a committee giving personal hearing to the applicants, hence such benefits can not be denied to the applicants in O.A. No. 197/07 merely on the ground that the Railway authorities did not challenge the order passed in O.A. No. 197/07 before the Hon'ble High Court. Hence, it is incumbent upon the respondents to grant similar benefits to the applicants by calling them for personal hearing before the Committee constituted.

3. That the applicant while denying the contentions made in Para 2 of the objection and reiterating and reaffirming the contentions made in the O.A. begs to state

Dina Nath Yadav

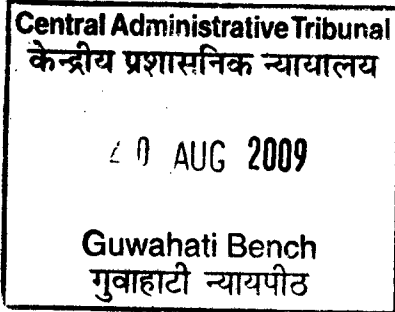


that order of the Hon'ble Tribunal dated 02.08.07 passed in O.A. No. 197/07 was very clear directing the respondents to constitute responsible Committee and consider the cases of the applicants giving personal hearing. Therefore, the order dated 21.06.08 [Annexure- R/1 of the objection] issued by the respondents is an empty formality and vague consideration of the cases of the applicants and is in derogation of the directions of the Hon'ble High Court as well as the Tribunal. The respondents never intimated the applicants regarding constitution of the Responsible Committee and giving personal hearing. The stand of the respondents that the applicant's names do not exist in the Live Casual Labour Register is not based on record. It is stated that the respondents admitted in the affidavit in reply filed in C.P. No. 5/09 that the records are still scattered and not examined. Therefore, the stand of the respondents in recognizing the status of the applicants that the applicants name do not appear in the Live Casual Labour Register is not correct in the event that the name are also entered by the respondents.

Moreover, the applicant further begs to state that it is the categorical stand of the respondents in the written statement filed before the Hon'ble Tribunal in O.A. No. 281/05 that the originals of the Live Casual Labour Register is missing and only some extract of Xerox copies are on records. Therefore, the stand of the respondents in the present proceeding that the names of the applicants do not appear in the Live Casual Labour Register and for which they are not entitled for personal hearing before the responsible Committee is baseless and discriminatory. Hence, in the peculiar facts and circumstances of the case the applicants pray before the Hon'ble Court to direct the respondents to give personal hearing to the applicants before the responsible Committee as has been done in the case of similarly situated persons.

4. That in view of above facts and circumstances of the case the present original application deserves to be allowed with cost.

Dina nath yadar



VERIFICATION

I, Shri Dinanath Yadav, aged about 36 years, son of Badari Yadav, presently residing at Village Auguri (2 No Udmori P.O. Amlighat, Dist-Morigaon Assam, do hereby solemnly affirm and state that the statement made in this petition from paragraph 1, 2 (Partly), 3, 4 are true to my knowledge and those made in paragraphs 2 (Partly) are matters records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

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

And I sign this verification on 10th day of Aug 2009.

Dina nath yadav

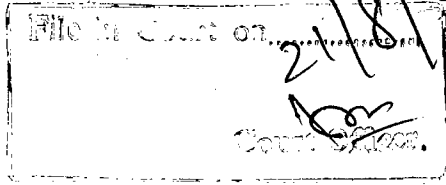
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O. A. NO. 155 / 2009

Shri Dinanath Yadav & Others

-Vs-

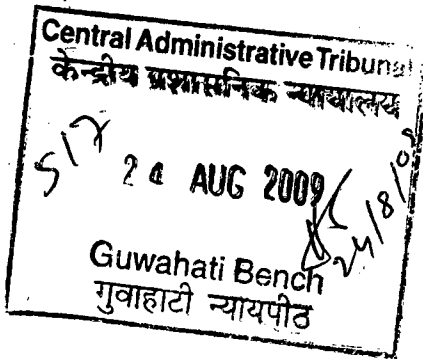
Union of India & Others



Filed by
The Deputy
Secy.
21/8/09

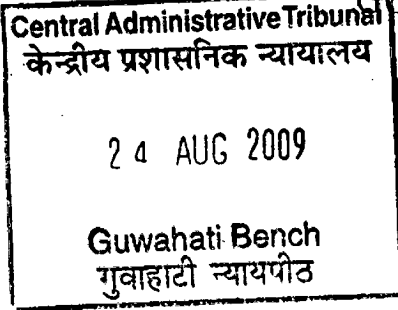
INDEX

<u>Sl. No.</u>	<u>Particulars</u>	<u>Index</u>	<u>Page</u>
1.	Written objection		1
2.	Verification		2
3.	Letter dated 04.6.2008 to Shri Dinanath Yadav	Annexure R -1	3
4.	Copy of order of Hon'ble Gauhati High Court	Annexure R-2	4



Advocate
21/8/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI



O. A. No. 155 / 2009

Shri Dinanath Yadav & Others

-Vs-

Union of India & Others

Preliminary objection before admission :

The respondents in the above case most respectfully beg to state as under :

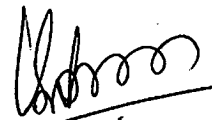
1. That the applicants have filed the above suppressing material facts and giving vague statements without disclosing facts.
2. That these cases have been decided by a three member committee in compliance of order in O.A. No. 209/2007 and individual applicants have been replied under certificate of posting.

Copy of letter dated 04.6.2008 is annexed as Annexure – R-1
(All letters are identically worded).

In this connection it is mentioned that the applicants are filing litigations repeatedly in spite of disposal of the representations. This is severely affecting the administrative work. In a similar case of Gopal Chandra Saha and others Vs UOI and others (WP(C) No. 6201 of 2007), Hon'ble Gauhati High Court has dismissed the writ petition and categorically observed that " **the Court shall desist from making unnecessary observations and confine to the issues before it. Entertaining the present petition would only result in reopening of an issue by more than quarter of century old. Such interference in the name of judicial review would only result in an absolute chaos and destabilization of the administration**".

Copy of the order of Hon'ble Gauhati High Court is annexed as Annexure – R-2

3. That in the circumstances the O.A. deserves to be dismissed with cost.


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

Filed by Respondent
Shri D. Yadav
S.C. No. 21/8109

VERIFICATION

I, Shri Shatrughna Behera, son of Shri B. C. Behera aged about 38 years, working as Dy. Chief Personnel Officer, N. F. Railway (Construction), Maligaon, do hereby verify that I am conversant with the facts of the case and that I have been authorized by the respondents to verify and sign this verification which I do accordingly. I verify that the statement made in para 1 to 3 are true to my knowledge and that I have not suppressed any material facts.

I sign this verification this 20th day of August, 2009.


Signature

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

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Annex - R-1

Northeast Frontier Railway
Office of the
Divisional Railway Manager (P)
Alipurduar Junction

No.E/255/12(E)AP-Pl.III

Dated ____/06/2008

To
SH. DINANATH YADAV
S/O BALAR YADAV
VILL: AUGUURU [2 NO. UDMORI]
PO: AMLIGHAT
DT: MORIGHOM[ASSAM] PIN : 782410

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub : Compliance of Hon'ble Cat/GHY's order dated 2.8.07 in OA
No. 209/07 Dinanath Yadav & Ors. -vs- UOI(Through NFR)

It is hereby informed you that, in compliance of CAT/GHY's order dated 02.08.07 in the above captioned OA, a committee of three Senior Officers of APDJ Division/N F Railway scrutinized your representation which has been submitted to this office.

On careful examination of your representation and the records of this office the committee found that your name does not exist in the Live Casual Labour Register maintained by this office for keeping record of discharged casual labour.

Since your name does not exist in the Live Casual Labor Register of this division, the committee did not found necessary to give you a personal hearing which was also not requested by you in the representation.

Considering the above facts, documents, provision of rules, the committee did not found fit to consider your case for absorption in Gr.D post in APDJ Division.

The committee disposed off the matter on 12.05.08.

It has been issued with the approval of competent authority.

[Signature]
(Choudhary P.C.Roy)
APO/Spl.
For Divl.Railway Manager (P)
Alipurduar Junction.

[Signature]
21/8/2009

प्रतिनिधि के लिए आवेदन की तारीख Date of application in copy	स्टाम्प और फोटो की अपेक्षित तारीख Date fixed for supplying the requisite number of stamps and photos.	अपेक्षित स्टाम्प और फोटो देने की तारीख Date of delivery of the requisite stamps and photos.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
11.12.07	11.12.07	11.12.07	8.1.08	8.1.08

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

U.P(c) No. 6201 of 2007

Appellant
Petitioner

Sri Chopal Chandra Saha & sons

The Union of India & sons

Respondent
Opposite Party

Appellant For Mr. D.P. Chaliha
Petitioner Mrs. J. Rajkumar
Mr. P.K. Borah
Respondent For Mr. M. Rama
Opposite Party C. M. Se

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature

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

20/8/07
Joint Personnel Officer (Legal Cell)
श्री: रमेश, मालिख, गुवाहाटी-781005
Joint Personnel Officer (Legal Cell)

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

IN THE MATTER OF :

1. Sri Gopal Chandra Saha,
S/o. Lt. Lakshman Ch. Saha, Vill & PO-Bhawanaguri,
Dist-Kokrajhar, Assam.

2. Sri Gopal Chandra Saha,
S/o. Kote Sasudev Saha,
Vill & P.O. Bhawanaguri,
Dist- Kokrajhar

3. Sri Narayan Roy,
S/o. Sri Jogendra Roy
Vill-Mandarpara
P.O.-Bhawanaguri,
Dist-Kokrajhar

4. Sri Monmath Kr. Roy,
S/o. Haratha Kr. Roy
Vill-Khalishanmari,
P.O.-Bhawanaguri
Dist- Kokrajhar

5. Ajit Haryaran Singha Baruah
S/o. -Birendra Singha Baruah
Vill-Mandarpara,
P.O.-Bhawanaguri
Dist- Kokrajhar

20/8/09
अ. प्रशासनिक न्यायालय (के.ए.सी.)
अ. प्रशासनिक न्यायालय (के.ए.सी.)
अ. प्रशासनिक न्यायालय (के.ए.सी.)
अ. प्रशासनिक न्यायालय (के.ए.सी.)

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

- 4- -3-
6. ~~Agar~~ Sri Sanjit Ghosh, -
Son of Sri Parua Ghosh, Vill-Babu. Hill.
P.O.-Gossaigaon, Dist-Kokrajhar
 7. Sri Pran Krishna Dihidar, Son of Sirish Ch.Dihidar,
Vill & P.O. Gossaigaon,
Dist-Kokrajhar
 8. Sri Nirmal Chandra pradhani
Son of Dinash Chandra pradhani
Vill-Khalishanmari
P.O.-Bhowraguri, Dist- Kokrajhar
 9. Sri Kaushik Barman
son of Sri Direndra Nath Barman
Vill- Mandanpara
P.O.-Bhowraguri,
Dist-Kokrajhar
 10. Sri Mangual Singh
son of Sri Rajendra Singh,
Vill-Gossaigaon Rly.Coloney
P.O.-Gossaigaon, Dist-Kokrajhar.

VERSUS

..PETITIONERS.

1. The Union of India, represented by the
General Manager, N.F.Railway, Maligaon,
Guwahati- 11.
2. The General Manager, N.F.Railway, Maligaon
3. The Divisional Railway Manager (P),
Alipurdwar Division,
Dist. Jalpaiguri, West Bengal.

... क: कायदा व्यवस्थापक (Legal Cell)
... क: कानून अधिकारी (Legal Cell)
... क: कानून अधिकारी, गुवाहाटी-781001
... क: कानून अधिकारी, गुवाहाटी-781001

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

4. The Chief Personnel Officer, N.F.
Railway, Maligaon, Guwahati-11.

..... Respondents.

The humble petition of the petitioners
above-named-

ASST. Personnel Officer (Legal Cell)
F. No. 1000, Maligaon, Guwahati-781001

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4
			<p>W.P(C) No. 6201/2007 BEFORE HON'BLE THE CHIEF JUSTICE MR.J. CHELAMESWAR HON'BLE MR. JUSTICE H. ROY</p> <p>10.12.2007 (Chelameswar, CJ)</p> <p>Aggrieved by the order dated 04.10.2007 passed by the Central Administrative Tribunal, Guwahati Bench the unsuccessful petitioners 10 (ten) in number have filed the present petition.</p> <p>The petitioners and some others, as it appears, were working as casual labour under the N.F.Railway during the period 1977-1980. 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 a circular was issued by the Railways pursuant to a direction issued by the Supreme Court in Indra Pal Yadav & Others vs. Union of India and others that such casual labourers who worked as project casual labourers before 01.01.1981 and discharged for want of further works due to completion of work to make representation on or before 31.02.1987 for the purpose of inclusion of their name in the seniority list which was to be prepared pursuant to</p>

AGP High Court-8/01-10/00021-8-2001

24/8/09
Jt. Personal Officer (Legal Cell)
श्री. जे. जे. जे. गुवाहाटी-781001

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4
			<p>the abovementioned decision of the Supreme Court, obviously for the purpose of absorption into service in terms of the abovementioned decision.</p> <p>Admittedly, the petitioners did not apply before 31.03.1987 they being ignorant of the circular referred to above. However, they became very active from December, 2000 and kept on making representations pursuant to the circular. As such representations did not yield any result, the present petitioners along with three others approached the Central Administrative Tribunal in Original Application No.46/2005, which was rejected by order dated 25.02.2005 principally on the ground 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 Respondents (Railway) may consider representations of the applicants in view of the fact that they were working during the period 1976-1980. Barring this observations, the O.A.No.46/2005 clearly stood dismissed.</p> <p>The Respondents once again considered the representations of the petitioner and rejected</p>

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4
			the same vide proceeding dated 18.08.2005 on the ground that except one of the representationists rest of them have produced fabricated materials to establish the fact that they worked under the Railways as casual labour between 1977-1980.
			Aggrieved by the above order dated 18.08.2005 the present petitioners once again approached the Central Administrative Tribunal in Original Application No.229/2005. The Tribunal once again disposed the application at the admission stage with certain observations as follows:-
			".... The applicants are directed to file an appeal/ representation against the impugned order (Annexure-16) before the 2 nd Respondents pointing out the illegalities in the impugned order within a period of one month from today. If any such appeal/ representation is filed by the applicants, the 2 nd respondent will dispose of the same in accordance with law and in the light of the observation made hereinabove within a period of three months thereafter. The applicants are free to produce copies of all the relevant records with them along with appeal/representation to be filed before the 2 nd Respondent. The 2 nd Respondent will pass a reasoned order with reference to records taking note of the observation made earlier in the judgment."

18/09
Legal Officer (Legal Cell)
Prisoners, Guwahati, Guwahati-781001.
Railways, Maligaon, Guwahati-781002

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>Pursuant to the disposal of the abovenamed O.A. No. 229/05 the Respondent once again passed a speaking order on 24.02.2006 rejecting the claims of the petitioner on two grounds- (1) that the applications were not made within the time stipulated by the circular, and (2) the records available with the respondents and the documents presented by the representationists (petitioner) do not give sufficient proof of the genuineness of the claim.</p> <p>Against that order dated 24.02.2006 the petitioners once again approached the Central Administrative Tribunal by filing Original Application No. 75/2006, which also stood dismissed vide order dated 04.10.2007, hence the present petition.</p> <p>The claim of the petitioners hopelessly barred by laches. The Tribunal dismissed the first petition on 25.02.2005 preferred by the petitioners and three others, clearly recorded that since the application was filed beyond the period of limitation prescribed under Rule 21 the same cannot be entertained. However, a casual observation presumed to be emanated from personal sympathy of the Presiding Officer, which resulted to the subsequent proceedings. This is a classic case</p>

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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

24 AUG 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

which demonstrates the principle that the court shall desist from making unnecessary observations and confine to the issues before it. Entertaining the present petition would only result in reopening of an issue by now more than quarter of century old. Such interference in the name of judicial review would only result in an absolute chaos and destabilization of the administration. 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. We regret to permit such adjudication. Accordingly, do not find any reason to entertain this petition.

The writ petition is dismissed.

sd/- G. Chelameswari
Chief Justice

sd/- H. Roy
Judge

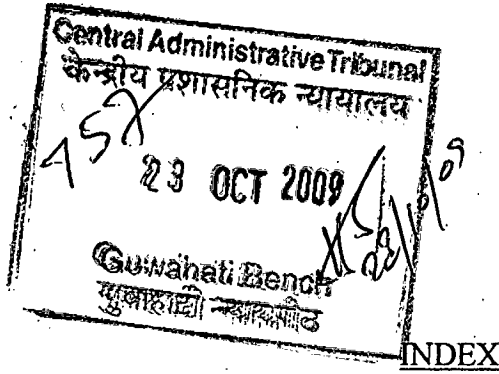
SL 87806
dt 11.12.07

CERTIFIED TO BE TRUE COPY
..... *Kerang Ram Liva*
Date..... 8/1/08
Superintendent (Copying Section)
Guwahati High Court
Authorized U/

sd/-
8-1-08

Signature 20/8/09
* न्यायिक न्यायालय (Legal Cell)
* Legal Personnel Office (Legal Cell)
* न्यायिक न्यायालय, गुवाहाटी-781001
* Cellar, Maligaon, Guwahati-781001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI



O. A. NO. 155 / 2009

Sri Dinanath Yadav & Others


-Vs-

Union of India & Others

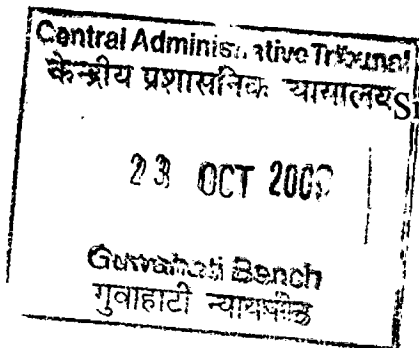
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3.	Verification		2
3.	Copy of judgment dated 10.12.2007 in W.P. (C) No. 6201/2007	Annexure – R - A	3

Received Copy.
Hag
23.10.09.


For Dr. J. L. Sonkar
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI



O. A. NO. 155 / 2009

Sri Dinanath Yadav & Others

-Vs-

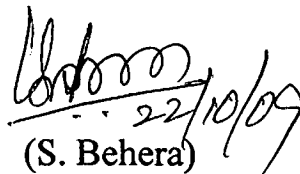
Union of India & Others

(Reply to the rejoinder of the applicant)

Filed by the respondents
through Dr. J.L. Sankar
S.C. Railways
23/10/09
for Dr. J.L. Sankar

The respondents have gone through the rejoinder filed by the applicant and respectfully states as under :-

1. That the statement made in the Written Statement is based on the factual event, and all are correct.
2. That the order dated 02.08.07 passed for O.A. No. 197/07 was correctly disposed of as directed by Court. It is stated that in the order dated 14.6.07 passed in O.A. No. 281/05 the Hon'ble Court had directed that the applicant may be called for personal hearing, if request is made. But from the representation of the applicant it was seen that no request was made for personal hearing. Accordingly 3 member committee was formed, and the said committee after examination of records passed appropriate order according to Hon'ble Court's directive. C.P. No. 5/09, 6/09 and 7/09 was quite separate in deliberation on the O. A. No. 261/06, 262/06 and 263/06. The applicants of O. A. No. 281/05, 261/06, 262/06 and 263/06 were called for personal hearing as per order in W. P. (C) No. 6157 of 2007. The judgment of O.A. No.197/07 and O.A. No. 209/07 had already been complied with and communicated to the applicants which have attained finality. The matter is no more res integra, and is barred by principles of res judicata. The Hon'ble Gauhati High Court discouraged such litigation by order dated 10.12.2007 in W.P. (C) No. 6201/2007. Copy of the order dated 10.12.2007 in W.P.(C) No. 6201/2007 is enclosed as Annexure-R- A.
3. That in the circumstances the O.A. deserves to be dismissed with cost.


(S. Behera)

Dy. CPO/Con

For General Manager/Con

उप मुख्य कार्मिक अधिकारी (नि.)

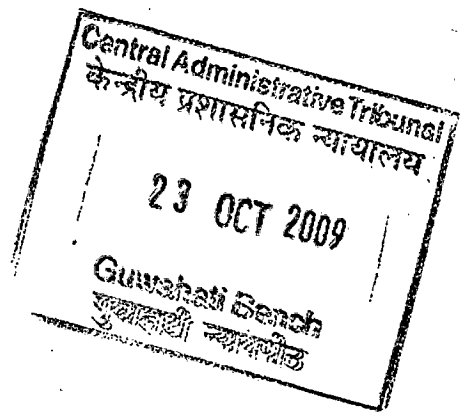
Dy. Chief Personnel Officer (Con.)

० सी० रेल, मालिगाँव

N. F. Railway, Maligaon

गुवा हटी-781011

Guwahati-781011



VERIFICATION

I, Shri Shatrughna Behera aged about 38 years, son of Shri B. C. Behera working as Deputy Chief Personnel Officer, N. F. Railway (Construction), Maligaon do hereby verify that I am conversant with the facts of the case and I have been authorized by the respondents to verify and sign this verification which I do accordingly. I verify that the statements in para 1, 2 and 3 are true to my knowledge and that I have not suppressed any material facts.

I sign this verification this ^{22nd} day of October 2009 at Guwahati.

22/10/09
Signature

उप मुख्य कार्मिक अधिकारी (नि.)
Dy. Chief Personnel Officer (Con.)
० सी० रेल, मालिगांव
N. F. Railway, Maligaon
गुवाहटी-781011
Guwahati-781011

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23 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ
01 of 2007

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from
Civil Rule

W.P.(c) No. 6201 of 2007

Appellant
Petitioner.

Sri Chopal Chandra Saha Donor

The Union of India & ours

Respondent _____
Opposite Party _____

Appellant Mr. D.P. Chaliha
For _____
Petitioner Mrs. J. Rajkumar
Mr. P.K. Borah
Respondent Mr. M. Rama
For _____
Opposite Party C. O. Se

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<p>Attended</p> <p>Private</p>			

~~A Herpetologist~~
~~Steve~~
~~Advocate~~

8/20/09

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
23 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

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IN THE MATTER OF :

1. Sri Gopal Chandra saha,
S/o. Lt. Lakshmi Ch. saha, Vill & PO-Bhawraguri,
Dist-Kokrajha, Assam.

2. Sri Gopal Chandra saha ,
S/o. Kote Basudev saha,
Vill & P.O. Bhawraguri,
Dist- Kokrajhar

3. Sri Narayan Roy,
S/o. Sri Jogendra Roy
Vill-Mandarpura
P.O.-Bhawraguri,
Dist-Kokrajhar

4. Sri Monmath Kr. Roy,
S/o. Maratha Kr. Roy
Vill-Khalishan imari,
P.O.-Bhawraguri
Dist- Kokrajhar

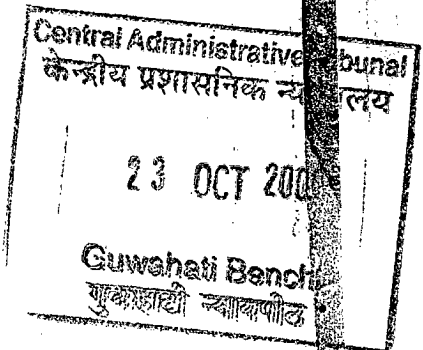
5. Ajit Nayaran singha Baruah
S/o. -Birendra singha Baruah
Vill-Mandarpura ,
P.O.-Bhawraguri
Dist- Kokrajhar

Dr. H.

20/10/09
...4.

-4-

6. ~~Ajit~~ Sri Sanjit Ghosh,
Son of Sri Parua Ghosh, Vill-Babu Hill.
P.O.-Gossaigaon, Dist-Kokrajhar
7. Sri Pran Krishna Dihidar, Son of Sirish Ch. Dihidar,
Vill & P.O. Gossaigaon,
Dist-Kokrajhar
8. Sri Nirmal Chandra Pradhan
Son of Dinash Chandra Pradhan
Vill-Khalishanmari
P.O.-Shawraguri, Dist- Kokrajhar
9. Sri Kaushik Barman
son of Sri Direndra Nath Barman
Vill- Mandanpara
P.O.-Shawraguri,
Dist-Kokrajhar
10. Sri Mangual Singh
son of Sri Rajendra Singh,
Vill-Gossaigaon Rly.Coloney
P.O.-Gossaigaon, Dist-Kokrajhar.

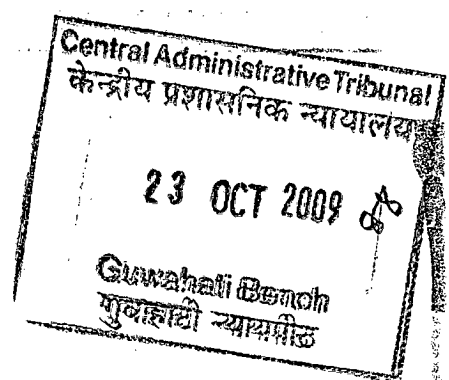


..PETITIONERS.

Versus

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

Sr 20/8/09



4. The Chief Personnel Officer, N.F.
Railway, Maligaon, Guwahati-11.

..... Respondents.

The humble petition of the petitioners
above-named-

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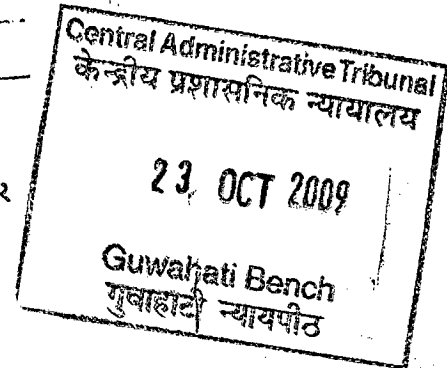
W.P(C) No. 6201/2007
BEFORE
HON'BLE THE CHIEF JUSTICE MR.J. CHELAMESWAR
HON'BLE MR. JUSTICE H. ROY

10.12.2007

(Chelameswar, CJ)

Aggrieved by the order dated 04.10.2007 passed by the Central Administrative Tribunal, Guwahati Bench the unsuccessful petitioners 10 (ten) in number have filed the present petition.

The petitioners and some others, as it appears, were working as casual labour under the N.F.Railway during the period 1977-1980. 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 a circular was issued by the Railways pursuant to a direction issued by the Supreme Court in Indra Pal Yadav & Others vs. Union of India and others that such casual labourers who worked as project casual labourers before 01.01.1981 and discharged for want of further works due to completion of work to make representation on or before 31.02.1987 for the purpose of inclusion of their name in the seniority list which was to be prepared pursuant to



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			<p>the abovementioned decision of the Supreme Court, obviously for the purpose of absorption into service in terms of the abovementioned decision.</p> <p>Admittedly, the petitioners did not apply before 31.03.1987 they being ignorant of the circular referred to above. However, they became very active from December, 2000 and kept on making representations pursuant to the circular. As such representations did not yield any result, the present petitioners along with three others approached the Central Administrative Tribunal in Original Application No.46/2005, which was rejected by order dated 25.02.2005 principally on the ground 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 Respondents (Railway) may consider representations of the applicants in view of the fact that they were working during the period 1976-1980. Barring this observations, the O.A.No.46/2005 clearly stood dismissed.</p> <p>The Respondents once again considered the representations of the petitioner and rejected</p>

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23 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Ed. H.

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the same vide proceeding dated 18.08.2005 on the ground that except one of the representationists rest of them have produced fabricated materials to establish the fact that they worked under the Railways as casual labour between 1977-1980.

Aggrieved by the above order dated 18.08.2005 the present petitioners once again approached the Central Administrative Tribunal in Original Application No.229/2005. The Tribunal once again disposed the application at the admission stage with certain observations as follows:-

".... The applicants are directed to file an appeal/ representation against the impugned order (Annexure-16) before the 2nd Respondents pointing out the illegalities in the impugned order within a period of one month from today. If any such 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 hereinabove within a period of three months thereafter. The applicants are free to produce copies of all the relevant records with them along with appeal/representation to be filed before the 2nd Respondent. The 2nd Respondent will pass a reasoned order with reference to records taking note of the observation made earlier in the judgment."

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Central Administrative Tribunal
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			Pursuant to the disposal of the abovenamed O.A.No.229/05 the Respondent once again passed a speaking order on 24.02.2006 rejecting the claims of the petitioner on two grounds- (1) that the applications were not made within the time stipulated by the circular, and (2) the records available with the respondents and the documents presented by the representationists (petitioner) do not give sufficient proof of the genuineness of the claim. Against that order dated 24.02.2006 the petitioners once again approached the Central Administrative Tribunal by filing Original Application No.75/2006, which also stood dismissed vide order dated 04.10.2007, hence the present petition. The claim of the petitioners hopelessly barred by laches. The Tribunal dismissed the first petition on 25.02.2005 preferred by the petitioners and three others, clearly recorded that since the application was filed beyond the period of limitation prescribed under Rule 21 the same cannot be entertained. However, a casual observation presumed to be emanated from personal sympathy of the Presiding Officer, which resulted to the subsequent proceedings. This is a classic case

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			<p>which demonstrates the principle that the court shall desist from making unnecessary observations and confine to the issues before it. Entertaining the present petition would only result in reopening of an issue by now more than quarter of century old. Such interference in the name of judicial review would only result in an absolute chaos and destabilization of the administration. 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. We regret to permit such adjudication. Accordingly, do not find any reason to entertain this petition.</p> <p>The writ petition is dismissed.</p>

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
23 OCT 2009
Gauhati Bench
गुवाहाटी न्यायपीठ

Jdt G. Chelameswar
Chief Justice

Jdt H. Roy
Judge

SL 87806
dt 11.12.07

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Kereng Ram Lura
Date..... 8/1/08
Superintendent (Copying Section)
Gauhati High Court
Authorized U/

Schiffel
8-1-08

Attested
(Signature)
(Advocate)

20/8/07