

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

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 : 33/2010 / 2009 in O.A. No. 155/09

5. Review Application No : ----- / 2009 in O.A. No. -----

6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Dinanath Yedav & Ors

Respondent (S) : Sri Sher Kumar & Ors

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

Advocate for the
(Respondent (S)) : Mr. H. K. Das

Advocate for the
(Respondent (S)) : Chak

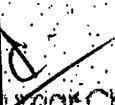
Notes of the Registry	Date	Order of the Tribunal
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This C.P. is filed by Mrs. B. Devi, Adv. on behalf of the applicants, praying for willful and deliberate violation of the order Dtd- 29-10-09 passed in OA: 155/09

16.08.2010 Willful disobedience of directions contained vide common order dated 29.10.2009 passed in O.A Nos. 154 & 155 of 2009 is alleged in present C.P. Prima facie contempt is made out.

Notice to respondent No.2 for the time being, returnable on 20.09.2010. Personal appearance is dispensed with for the time being.

List on 30.09.2010.


(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

Maid before
The Hon'ble court
for favour of
orders.

Section Officer (J)

19-8-2010
Mr. Lekhman Das
P. Gopal Chakraborty
dated 26-8-2010
S. No. 1697/10

① Notice issued
vide D.No-2176.

② Service report
awaited.

3
29.9.2010

C.P. 33/2010 (O.A.155/2009)

C.P.33 of 2010 in O.A.155 of 09

30.09.2010 Notices were dispatched only on
01.11.2010 13.9.2010 Service report is awaited before the
Bench adjourned to 1.11.2010.

/pa/

~~(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)~~
Member (A) ~~Member (J)~~

/pg/

01.11.2010 List on 13.12.2010 before Division
Bench:

/pg/

~~(Madan Kumar Chaturvedi)~~
Member (A)

service is still
awaited from R.No.

-2.

13.12.2010 Mr H.K.Das, learned counsel for the applicant
is present.

List on 14.02.2011 before Division Bench.

pg

~~(Madan Kumar Chaturvedi)~~
Member (A)

4.5.11
Service report
awaited

14.02.2011 Place it before the Division Bench at the
earliest possible date. Adjourned sine die.

/bb/

~~(Madan Kumar Chaturvedi)~~
Member (A)

05.05.2011

Mrs.B.Devi, learned counsel on behalf of
the petitioner is present.

List the matter tomorrow i.e., on

06.05.2011.

~~(M.K.Chaturvedi)~~
Member (A)

~~(N.A.Brito)~~
Member (J)

/bb/

06.05.2011

Ms. B. Devi, learned counsel for the

applicant is present. Mr. M.K.Mazumdar,

learned counsel for the respondents seeks time

to take instruction.

List on 20.5.2011.

19-5-11
Service reports
are awaited.

(M. K. Chaturvedi)

Member (A)

(N.A.Brito)

Member (J)

pg

20.05.2011 Mr. G.Goswami, learned counsel for the

Applicant is present. Mr.M.K.Mazumdar, learned counsel on behalf of the Respondents states that the representation made by the Applicant has been rejected by letter dated 24.9.2010 and thus the order of this Tribunal stands complied with. We accept the said submission and disposed of the application for execution accordingly. Copy of the communication dated 24.9.2010 is placed on record.

(M. K. Chaturvedi.)

Member (A)

(N.A.Brito)

Member (J)

Im

28

KJ

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

No.E/208/2/OA/154 & 155/09/GHY

24.09.10

To
Shri Megha SARKAR, S/o Dineshwar Sarker
Hill - Maligaon
P.O - Ghati - 12
Dist - Kamrup (Assam) 781012

Sub : Compliance of Hon'ble CAT/GHY's order dated
29.10.09 passed in -

(i) OA No. 154/09 -
Rupen Boro & 73 Ors. -vs-UOI & Ors.

(ii) OA No. 155/09 -
Dinanath Yadav & 32 Ors. -vs-UOI & Ors.

In compliance to CAT/GHY's order dated 29.10.09 passed in the above OAs, your representation has been scrutinized by a committee consisting of ADEN/HQ/APDJ & APO/II/APDJ so nominated. After careful consideration of your representation dated 02.12.09 as well as report of Scrutiny Committee, DRM/APDJ has passed the following order-

"Rly. Rd. Vide L/No. E(NG)II-78/CL/2 dated 4.3.87 had given chance to the ex.Casual Labour to submit their applications to enlist their name in the Live CL Register of their respective jurisdictional office by 31.3.1987. Those who applied and found genuine their names were enlisted had already been screened and engaged. But your name does not appear in the said live register. (i) you have not furnished the date of proof or omission of your application if any, for enlisting your name in the said Suppl. Live Register for Ex.CL. (ii) you did not furnish date of your engagement, period of working, place of working, date of discharge, I/Card, CL Card if any etc. Hence your claim of working as Casual Labour appears fictitious. Thus the decision communicated vide this office letter dated 04.06.2008 stands good."

This is for your information.

Ae 24/9/10

For Divi.Rly. Manager (P)
Alipurduar Junction.

Copy to :

GM(Con/MLG. For information and necessary action please. This disposes their L/No. PA/154/155/2009 dated 31.3.10.

For Divi.Rly. Manager (P)
Alipurduar Junction.

(MS) 29

DETAILS PARTICULARS TO DISPOSE OF REPRESENTATION OF APPLICANTS IN OA/155/09- DINANATH YADAV & 32 OTHERS -VS- UOI & ORS. IN CONNECTION WITH COMPLIANCE OF CAT/GHY'S ORDER DATED 29.10.2009.

Sn	Name of the applicants in the instant OA/1.54/09	Sl. No. of applicants in their previous OA/209/07	Date of receipt of representation	Claim preferred in the representation	Details of representation				Remarks
					Copy of I/Card	Copy of C.L.Card	Working period claimed to have worked	Station of such working	
1	2	3	4	5	A	B	C	D	
1	Dinanath Yadav	1	4.3.10 [ALO/Con]	For absorption in Gr.D post.	—	—	—	—	represented his sub without furnish particulars of h re-b
2	Madhu Ram Kalita	2	do.	do.	—	—	—	—	11
3	Bishya Yadav	3	do.	do.	—	—	—	—	11
4	Ganesh Rai	4	do.	do.	—	—	—	—	11
5	Rukma Rabha	5	do.	do.	—	—	—	—	11
6	Dwipen Rabha	6	do.	do.	—	—	—	—	11
7	Bikash Das	7	do.	do.	—	—	—	—	11
8	Jayanta Kalita	8	do.	do.	—	—	—	—	11
9	Bolo Ram Das	9	do.	do.	—	—	—	—	11
10	Paban Das	10	do.	do.	—	—	—	—	11
11	Chandan Nath	11	do.	do.	—	—	—	—	11
12	Dipak Ch. Das	12	do.	do.	—	—	—	—	11
13	Bhabananda Das	13	do.	do.	—	—	—	—	11
14	Durga Rajbhar	14	do.	do.	—	—	—	—	11

26/11/10
MENTAL/110

24/11/10
20/11/10

20/11/10
11/11

without any particular
as at least 6.

Key 08
12-710
C2 A

Aug 11 1910
A. J. Entwistle

~~W. 20710~~
Apr 15 1987

Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय
995 18 AUG 2010
Guwahati Bench गुवाहाटी न्यायपीठ

Filed by:-
The Petitioners
through
Bordoloi, Arun
Aharcikar, 10/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.

C.P.No. 33 /2010

In OA No.155/2009

Dinanath Yadav and Ors.

-vs-

Union of India & Ors.

IN THE MATTER OF:

An application under Rule 17 of the Administrative Tribunal Act, 1985 for drawal of Contempt Proceeding against the Contemners, for their willful and deliberate violation of the common judgment and order dated 29.10.2009 passed in OA No. 154/09 and 155/09.

-AND-

IN THE MATTER OF:

An application under Rule 24 of the Central Administrative Tribunal (Procedure) Rules 1987 for implementation of the common judgment and order dated 29.10.09 passed in OA No. 154/09 and 155/09.

-AND-

18 AUG 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

IN THE MATTER OF

1. Sri Dinanath Yadav, s/o Badari Yadav,
2. Sri Madhu Ram Kalita, s/o Rupeswar Kalita.
3. Shri 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.
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 Jeherul Islam. s/o Md.Abdul Kuddus.

18 AUG 2010

Guwahati Bench
गुवाहाटी न्यायपोठ

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

-----Petitioners

-VS-

1) Sri Shiv Kumar

The General Manager cum General Manager
(Construction)
N.F.Railway, Maligaon,
Guwahati-781011.

2) Sri Anand Kishore Jha

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

----- Contemnners

18 AUG 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

८५८

The humble application on behalf of the petitioners
above named

MOST RESPECTFULLY SHEWETH:

1. That the petitioners challenging the inaction on the part of the respondents in not considering their cases for regular absorption as group D employee approached the Hon'ble Tribunal by filing OA No. 155/09. The Hon'ble Tribunal after hearing the parties at length was pleased to dispose of the said OA vide common judgment and order dated 29.10.09 directing the applicants to file comprehensive representation within a period of one month from the date of receipt of the order and at the same time the Hon'ble Tribunal directed the respondents to consider the said representation and pass appropriate order within a period of four months from the date of receipt of the such representation.

It is pertinent to mention here that initially the Hon'ble Tribunal while issuing notices to the respondents was pleased to pass an interim order dated 10.9.09 directing the respondents to scrutinize the service particulars of the applicants by constituting a responsible committee. The applicants immediately after passing of the aforesaid order dated 10.9.09 submitted the same before the authority concerned by filing representation along with their all service particulars which was duly received by the authority but the authority concerned showing utter disrespect to the order passed by this Hon'ble Tribunal kept silent and nothing was communicated to the petitioners in this regard.

18 AUG 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Copies of the interim order dated 10.9.09 and one of the representation and the final judgment and order dated 29.10.09 passed in OA No. 154/09 and 155/09 is annexed herewith and marked as Annexure-1,2 and 3.

4. That the petitioners state that immediately after the aforesaid judgment and order dated 29.10.09 they had submitted the same along with individual representation before the authority concerned, but nothing was communicated to them till date. Situated thus the petitioners having no other alternative have approached this Hon'ble Tribunal filing this instant contempt petition.

Copy of one of such representation dated 22.11.08 along with the receipt is annexed herewith and marked as Annexure-4

5. That the petitioners state that the judgment of this Hon'ble Tribunal was very clear regarding scrutinisation of the records of the petitioners and there after to consider their cases for regularisation in group D vacancy. But the contemners however have willfully and deliberately violated the judgment of this Hon'ble Tribunal without taking any leave from this Hon'ble Tribunal. Situated thus the petitioner has served a legal notice upon the respondent but that too has failed to get any response.

18 AUG 2010 106

Guwahati Bench
गुवाहाटी न्यायपीठ

Copy of the legal notice dated 10.9.09
annexed herewith and marked as Annexure-5

6. That the petitioners state that the action on the part of the contemners in not implementing the judgment dated 29.10.09 passed in OA No. 154/09 and 155/09 is very much contemptuous in nature and for the same the contemners are liable to be punished severely for their such action.

7. That the petitioners state that the contemners willfully and deliberately to violated the directions contained in the judgment. In such an eventuality the instant contempt petition is an unique of it's kind wherein there has been complete disobedience of a judgment and order passed by the Hon'ble Tribunal and it is a fit case wherein this Hon'ble Tribunal may be pleased to draw up appropriate contempt proceeding against the contemners and to punish them severely. The petitioners through this petition also pray before this Hon'ble Tribunal for proper implementation of the judgment and order dated 29.10.09 passed in OA No. 154/09 and 155/09 invoking Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987.

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

18 AUG 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to draw up appropriate contempt proceeding against the contemners for their willful and deliberate violation of the judgment and order dated 29.10.09 and accordingly punish them severely for such willful and deliberate violation of the same and an appropriate direction may be to implement the said judgment and/or pass any such order/orders as Your Lordships deem fit and proper.

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

Dimanath Yadav

18 AUG 2010

Guwahati Bench
গুৱাহাটী ন্যায়পৌঢ়

DRAFT CHARGE

Sri Shiv Kumar, The General Manager cum General Manager (Construction), N.F.Railway, Maligaon, Guwahati-781011 and Sri Anand Kishore Jha, The Divisional Railway Manager (P) Alipurduar Division, N.F.Railway, Alipurduar have willfully and deliberately violated the judgment and order dated 29.10.09 passed in OA No. 155/09 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench and as such they are liable to be punished under the provisions contained in Contempt of Courts Act for such act of willful and deliberate violation.

Dinanath yadav

18 AUG 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠAFFIDAVIT

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 as follows;

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

2. That the statements made in this affidavit and in the accompanying application in paragraphs 2, 6, 7, are true to my knowledge ; those made in paragraphs 3, 4, 5, being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this affidavit on this the 18th day of Aug, of 2010.

Identified by me :

Dinanath Yadav

Deponent

Advocate

FORM NO. 4
(See Rule 42)
10
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:
ORDERSHEET

ANNEXURE - 1

Central Administrative Tribunal
द्राय प्रशासनिक न्यायालय

18 AUG 2010

Guwahati Bench
18/8/2010

- ORIGINAL APPLICATION No : 155 / 2009
- Transfer Application No : / 2009 in O.A. No. -----
- Misc. Petition No : / 2009 in O.A. No. -----
- Contempt Petition No : / 2009 in O.A. No. -----
- Review Application No : / 2009 in O.A. No. -----
- Execution Petition No : / 2009 in O.A. No. -----

Applicant (S) : *Dinanath Yadav*

Respondent (S) : *Union of India*

Advocate for the : *Adv. G. Goswami*
(Applicant (S)) *Adv. B. Devi* or *Mr. H.K. Das*

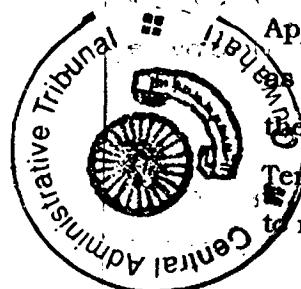
Advocate for the : *Dr. J.L. Sarkar*
(Respondent (S)) *Rly. Standing Counsel*

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 an to bring them over to regular establishment) who are

Contd/-

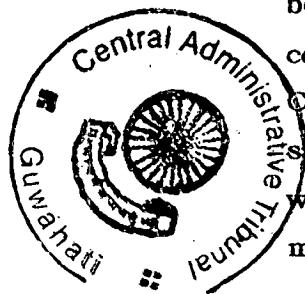


*Attested
Sri
Advocate*

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/-

18 AUG 2009

10.09.2009

Guwahati Bench

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.

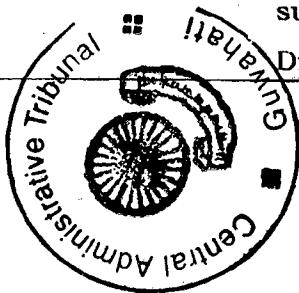
4. Call this matter on 26.10.2009.

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.

Sd/-

M.R. Mohanty
Vice Chairman

Sd/-

M.K. Chaturvedi
Member (A)TRUE COPY
प्रतिलिपि

अनुभग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपाठ
Guwahati Bench
गुवाहाटी/Guwahati-5

13
Memo No

-13-

Dated :-

Copy for information and necessary
action to :-

- 1/ 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.
- ✓ 4/ Mr. H. K. Das, Advocate, CAT, GAT-5.
- 5/ Dr. J. L. Sarkar, S. C, Railway, CAT, GAT-5

20/11/67
अनुभास अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी-4
Guwahati-5

18/10/2010

Guwahati Bench
গুৱাহাটী ন্যায়পাল

To
The General Manager (Construction),
N.E.C. Rang Bodh,
Majuli, Gauhati-781011

SUB: Order dated 10.9.2009 passed in O.A. No. 154/09 Rupen
Boro -Vs-Union of India and others and 155/09 Dinanath
Yadav -Vs- Union of India and others passed by the Hon'ble
Central Administrative Tribunal.

Sir,

With due deference and profound submission I beg to lay
the following few lines for your kind consideration and
necessary action thereof.

That sir I am an ex-casual labour under your
organisation, and I have approached the Hon'ble Central
Administrative Tribunal praying for consideration of my case
for permanent absorption by the responsible committee formed
by you for that purpose, the said committee is presently
considering the cases of other similarly situated persons
like me. The Hon'ble Tribunal vide order dated 10.9.09
directed to approach the Responsible Committee for
verification of my casual labour documents (Copy enclosed).

I therefore earnestly request Your Honour to kindly
verify and consider my case for regular absorption as group
"D" employee.

Thanking You.

Sincerely Yours

Attested
Sri
Advocate

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

O.A. Nos. 154 and 155 of 2009

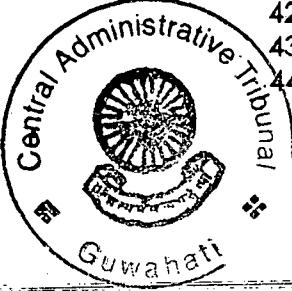
DATE OF DECISION : THIS IS THE 29TH DAY OF OCTOBER, 2009.

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

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
18 OCT 2010

Guwahati Bench
গুৱাহাটী বৰ্ষাপৰীঠ

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 Rajbonshi
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 Lakhan 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 Ram Lagan 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 Hitlar 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



Attested
Sri
Advocate

45. Sri Nagen Tamuli, S/o Sri Abhai 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 Ramchiyary, S/o Babul Ramchiyary
 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 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. 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 Saikai
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).

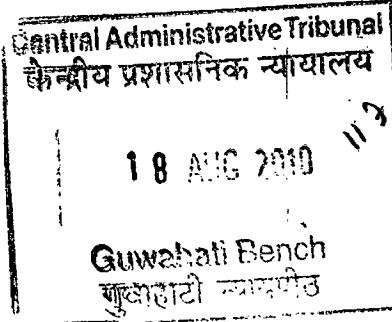
By Advocate : Mr. H.K. Das, Advocate Applicants in O.A. 155 of 2008

-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.



18 4
ORDER

29. 10.2009

MR 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.

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 find 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 find 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 operandi 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.

Central Administrative Tri-
केन्द्रीय प्रशासनिक न्याय
18 AUG 2018
Guwahati Bench
गুৱাহাটী বৰ্ষাবৰ্ষণ

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-

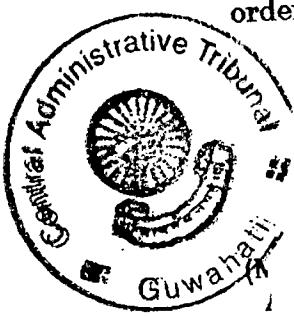
casual labour card, certificate of date of birth, Educational certificate, Caste certificate, Identity Card etc. We, therefore, in the interest of



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.



Sd/ MEMBER (J)
Sd/ -Member(A)

/pg/

TRUE COPY
प्राप्तिलिपि
07/01/09
अनुभव अधिकारी
Section Officer (Judt)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गवाहाटी/Guwahati-5

18 AUG 2010

To,

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

Date-22.11.09 Guwahati Bench

9 जूनी न्यायालय

Sub- Common Judgment and Order dated 29.10.09 passed in OA No. 154 and 155 of 2009.

Sir,

With due deference and profound submission I beg to lay the following few lines for your kind consideration and necessary action thereof.

That Sir, on being selected I was engaged as casual labour and was continuing as such for a long period. I have completed requisite number of days and as such entitled for conferment of temporary status. Instead of regularising my service I was terminated from my service.

That Sir, I belong to very poor family. I have been continuously pursuing the matter regarding regularisation of my service but as yet nothing has been done in this regard.

That Sir, seeking a direction towards consideration of my case for absorption in group D post I have approached the Hon'ble Tribunal along with some other similarly situated persons. The Hon'ble Tribunal vide interim order dated 10.9.09 directed the railways to verify the records of the applicants by the responsible committee. Accordingly I have submitted all the

Attested
Sri
Advocate

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18/11/2010

Guwahati Bench
गुवाहाटी न्यायालय

service particulars along with the said interim order dated 10.9.09 for verification of my records.

That Sir the Hon'ble Tribunal thereafter was pleased to dispose of the said OAs vide common judgment and order dated 29.10.09 directing the respondents to consider the cases of the applicants.

That Sir, I am submiting herewith all the required service particulars , I therefore request your honour kindly to verify my documents towards consideration of my case for absorption in group D post for which I shall remain ever grateful to you.

Thanking you,

Sincerely yours

Enclosure:

1. Judgment and order dated 29.10.09.
2. Service particulars.

18 AUG 2010

Guwahati Bench
गুৱাহাটী কোর্টৰ পৰি

Under Certificate of Posting

OA/No. 154 & 155 dt. 29/10/10

Representation No. 33

To,

The GM/CON (N.F.R.L) / M.G./& H/ 211

From:-

① Dina Nath Yadav. dt 22-11-09

② Rupen Bora.

ANNEXURE - 5, N

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

10 AUG 2010

Guwahati Bench
গুৱাহাটী ন্যায়বৰ্ধ

BABDANA DEVI

Natun Sarania

Advocate

Gandhibasti

Gauhati High Court

Guwahati-3

To,

1. The General Manager (Construction)
N.F.Railway, Maligaon, Guwahati-11.
2. The Divisional Railway Manager (P)
Alipurduwar Division, N.F.Railways,
Alipurduwar.

Sub:-Legal notice.

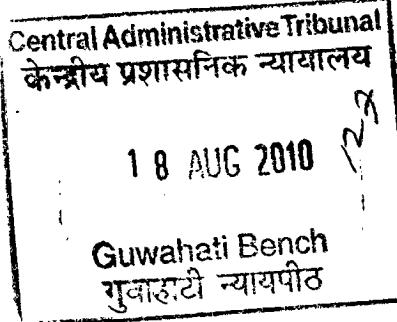
Ref:-Judgment and order dated 29.10.09 passed in OA Nos.154/09 and 155/09.

Sir,

Upon authority and as per instruction of my clients in the above noted original application, I give you this notice as follows:

That Sir, being aggrieved by the action on your part in not regularising their services in group D post, my clients aforesaid approached the Hon'ble Tribunal by filing OA No.154/09 and 154/09. The Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the above noted OAs by common judgment and order dated 29.10.09 directing you to

Attested
By
Advocate



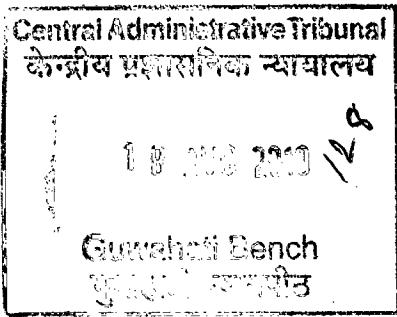
BARDANA DEVI
Advocate
Gauhati High Court

Natum Sarania
Gandhibasti
Guwahati-3

scrutinize the cases of my clients aforesaid and thereby to consider their cases for regularisation in group D post.

That Sir, immediately after passing of the said judgment and order dated 29.10.09 my clients aforesaid have submitted their representation enclosing the certified copy of the judgment. It is noteworthy to mention here that as per railway correspondences all the service particulars pertaining to my clients aforesaid are seems to be available in the office of the Deputy Chief Engineer, Construction, Brahmaputra Bridge Project, Jorhat and by making verification of those records my clients can be absorbed in group D post. It is therefore my clients aforesaid have been waiting for a favourable order from your side towards their absorption in any group D post but till date nothing has been communicated to them.

It is under this fact and situation of the case I give you this notice making a demand to take necessary steps in the matter and thereafter to absorb my clients aforesaid in any group D post within a period of 30 days from the date of receipt of this notice failing which instruction of my clients is to initiate appropriate legal proceeding against you which may include contempt of Court also.



BABDANA DEVI

Advocate

Gauhati High Court

Natun Sarania

Gandhibasti

Guwahati-3

I hope and trust that there would be no such occasion
for any further litigation dragging you unnecessarily into it.

Thanking you,

Sincerely yours

Bandana Devi