

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,  
JABALPUR

**Original Applications Nos 582 and 583 of 2004**

This the 27<sup>th</sup> day of October, 2005.

Hon'ble Mr. M.P. Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

**(1) Original Application No. 582 of 2004**

Anil Raj S/o Shri Ram Charanlal  
Aged 42 years 10 months  
Occupation – Unemployed,  
R/o New Tulsivihar Colony,  
H/No. 14/140 Sewa Nagar,  
Gwalior (M.P.) Applicant

(By Advocate – Shri S.C. Sharma)

**V E R S U S**

1. The Union of India  
Through the General Manager,  
North – Central Railway  
Allahabad (U.P.)
2. Divisional Railway Manager  
North Central Railway  
Jhansi (U.P.)
3. Sr. Divisional Personal Officer  
North Central Railway  
Jhansi (U.P.)
4. Asstt. Personal Officer  
North Central Railway  
Jhansi (U.P.)
5. Dayaram S/o Sunna  
R/o Tansen Road Laxman Pura  
Opposite Pahar Thana  
Gwalior (M.P.) Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bhardwaj)

(R)

## (2) Original Application No. 583 of 2004

Narayan Prasad S/o Late Shri Pannalal  
 Aged 45 years, occupation-Unemployed,  
 R/o Near Naharbali Mata  
 Naka Chandrawadani, Lashkar,  
 Gwalior (M.P.)

Applicant

(By Advocate – Shri S.C. Sharma)

V E R S U S

1. The Union of India  
 Through the General Manager,  
 North – Central Railway  
 Allahabad (U.P.)
2. Divisional Railway Manager  
 North Central Railway  
 Jhansi (U.P.)
3. Sr. Divisional Personal Officer  
 North Central Railway  
 Jhansi (U.P.)
4. Asstt. Personal Officer  
 North Central Railway  
 Jhansi (U.P.)
5. Dayaram S/o Sunna  
 R/o Tansen Road Laxman Pura  
 Opposite Pahar Thana  
 Gwalior (M.P.)

Respondents

(By Advocate – Shri Raja Sharma on behalf of Shri V.K. Bhardwaj)

O R D E R (Common)By Madan Mohan, Judicial Member –

The issue involved in both the OAs is common and the facts and grounds raised are identical, for the sake of convenience both the OAs are being disposed of by this common order.



2. By filing these Original Applications, the applicants have sought the following main reliefs :-

"(A) That the arbitrary and discriminatory action of the respondents in issuing Call Letter for screening and sending for medical examination to Respondent No.5 ignoring the senior person i.e. applicant by the Respondents may kindly be deprecated and declare bad in law.  
 (B) That, the respondents may kindly be directed to issue Call letter for screening to the Applicant and if he is considered and found fit, he be sent for Medical Examination and then he be appointed on Class 'D' post earlier than Respondent No.5."

3. The brief facts of the case as stated by that the applicants are that the applicant in OA No.582/04 was initially engaged for 19 days w.e.f. 3.12.1983 to 21.12.1983 in Group 'D' post under the respondents railway and applicant in OA No 583/05 was initially engaged as Casual Labour w.e.f. 28.4.78 to 18.6.78 under the respondents railway. Thereafter they were reengaged in different spells of time.. The applicants stated that according to para 2504 of Railway Establishment Manual the applicants had acquired the temporary status as they had worked for more than 120 days. Disengaging all the class 'D' employees of various departments of Railway including watermen, the Railway prepared and maintained a live register of these employees and also maintained their inter se seniority list at Gwalior Station. The names of the applicants are placed at Sr. No. 987 and 989 in the live register. According to the applicants, one Shri Daya Ram who was junior to the applicants has been shown at Sr. No.1008 in the liver register. A notification dated 30.8.2001 was issued by the respondents to fill up Group 'D' post from the discharged ex-casual employees and watermen. The applicants have submitted their applications in response to the aforesaid notification. However, the respondents have not issued any call letter to them. The main contention of the applicants is that in pursuance of the aforesaid notification one Shri Daya Ram who was junior to them also applied and the respondents have issued him the



call letter dated 25.12.2003 and thereafter he was sent for medical test for providing appointment in Group 'D' post. The applicants sent representations and legal notices to the respondents, but they have not paid any heed. Hence, these OAs.

3. Heard the learned counsel for the parties and carefully perused the records.

4. The learned counsel for the applicants has argued that one Shri Daya Ram who is junior to the applicants was considered for appointment and was issued the call letter dated 25.12.2003 and thereafter he was sent for medical test for providing appointment in Group 'D' post whereas the applicants who are senior than the aforesaid Shri Daya Ram were not considered for appointment in Group 'D' post. He also argued that the applicants were not issued the call letter on the ground that they did not possess the educational qualification. In this regard he has submitted orders dated 25.4.2005 and 1.6.2000 whereby the respondents have granted such relaxation to the other similarly situated candidates and considered them for appointment. The learned counsel for the applicant further submitted that the applicants' case should also be considered in the light of the call letters issued to other similarly placed persons as the applicants have been discriminated. The action of the respondents is not sustainable in the eyes of law.

6. In reply, the learned counsel for the respondents argued that endeavors are made to absorb the casual labourers on the basis of their particulars in casual labourers live registers and instructions issued by the Railway Board. He also argued that the Railway Board issued the instructions dated 28.2.2001 (Annexure-R-1) stating that the casual labourers will be considered for absorption strictly as per their turn according to seniority based on the total number of days put in by them as casual labourer. The upper age limit was prescribed i.e. 40 years for General, 43 years for OBC and 45 years for SC/ST

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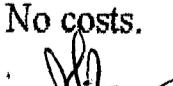
candidates respectively. The learned counsel for the respondents further stated that during scrutinizing the particulars received it was found that the applicants had sent their particulars directly to DRM (P) Jhansi and not through their depot incharge. The direct applications were not invited by the respondents. The particulars were to be sent by the depot incharge after verifying the same as shown in Annexure-R-III. It was also found that at the relevant time the applicants were over aged i.e. beyond 40 years. They have not fulfilled all the conditions. Hence, they were not sent the call letters. The respondents have discriminated with the applicants.

7. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicants have served for more than 120 days with the respondents railway. We have perused the letter dated 1.6.2000 bywhich relaxation has been provided to similarly situated persons regarding educational qualification and age. We have also perused the letter dated 25.4.2005 wherein 11 persons' name have been mentioned who have also been granted age relaxation. The argument advanced on behalf of the applicants that the applicants' case should also be considered in the light of the aforesaid letters issued to other similarly placed persons seems to be correct. We also find that the aforesaid Dayaram is junior to the applicant, who has been considered for Group 'D' post and the applicants were not considered for the same. This action of the respondents is totally hostile discrimination.

8. Considering all the facts and circumstance of the case, the respondents are directed to give the same relaxation to the applicants as well which were given to the similarly placed persons and to consider them for appointment to Group 'D' posts within a period of 4 months from the date of receipt of a copy of this order.

9. With the above directions, the OA stands disposed of. No costs.

(Madan Mohan)  
Judicial Member

  
M.P.Singh)  
Vice Chairman