CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.

ORIGINAL APPLICATION Nos.480/2012, 481/2012, 528/2012, 622/2012, 840/2012, 841/2012, 842/2012 19/2013, 20/2013, 21/2013, 258/2013 & 49/2014

Dated this _____ the 5th day of ~~April~~ May, 2015

CORAM: HON'BLE SHRI ANIL KUMAR, MEMBER (A)
HON'BLE SMT CHAMELI MAJUMDAR, MEMBER (J)

OA No.480/2012

1. Ramesh s/o. Shri Madho
R/at. Nimoda, Tehsil Sapotra,
Dist. Karuali (Rajasthan)

2. Girraj s/o. Shri Badri
R/at. Nimoda, Tehsil Sapotra,
Dist. Karuali (Rajasthan)

3. Gajanand urf Gajendra Singh
R/at. Nimoda, Tehsil Sapotra,
Dist. Karuali (Rajasthan)

4. Samshudeen s/o. Shri Nanu Khan
R/o. Nasiya Colony,
Ward No.15, Gangapurcity,
Dist. Sawaimadhopur (Rajasthan).

5. Iqbal Mohammed s/o Shri Ishak Mohammed
R/o. Ishlampur, Gangapurcity,
Distt. Sawaimadhopur (Rajasthan)

6. Devilal s/o Shri Narayan
R/at. Village Bacholai, Tehsil
Gangapurcity,
Distt. Sawaimadhopur (Rajasthan)

7. Prabhu s/o. Shri Manna
R/o. Nimoda, Tehsil Sapotra,
Distt. Karuali (Rajasthan)

8. Kedar s/o. Shri Bhanwaria
R/at. Nimoda, Tehsil Gangapurcity,
Dist. Sawaimadhopur (Rajasthan).

9. Bhagwan Swaroop s/o Gopal B
R/at. Opposite Babu Colony
Mandir, Near Naka Chungi,
Kota (Rajasthan).

10. Satish Kumar s/o. Shri Anokhelal
R/o. Man Singh Ki Building,
Chopra Farm,
Gall No.3, Kota (Rajasthan)

11. Om Prakash s/o Gulab Chand
R/at Bapu Colony, Kota (Rajasthan)

12. Mohammed Ayueb s/o Shri Mohammed Akbar
R/at. Rangpur Road, Meat Market,
Kota (Rajasthan)

13. Moindeen s/o Shri Mumtaj
R/at. J.P. Colony Rangpur
Road, Kota (Rajasthan)

14. Rajendra Mohan s/o Neeraj Prakash
R/at. Housing Board Colony,
Ganeshpura Road,
Kota (Rajasthan)

15. Rafiq s/o Shri Habbi Khan
R/at Rangpur Road,
JP Colony, Kota (Rajasthan)

16. Rajendra Singh s/o Bhagwan Singh
R/o. House No.35, Kailashpuri,
Kota Jn., Kota (Rajasthan)

17. Ram Singh s/o Bhonri Lal
R/o. Village & Post-Salempur,
the.- Gangapur City,
Distt. Sawaimadhopur
(Rajasthan). ... **Applicants**

(By Advocate Shri C.P. Sharma)

VERSUS

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Office of General Manager,
West Central Railway,
Indira Market,
Jabalpur (M.P.)

3. Divisional Railway Manager
through its office Divisional
Railway Manager,
Personnel Branch, Kota. ... **Respondents**

(By Advocate Shri Mr. Anupam Agarwal)

OA No.481/2012

1. Girraj Prasad Sharma
s/o Shri Bajrang Lal
R/o Umari, Tehsil Gangapurcity,
District Sawaimadhopur.

2. Sher Singh s/o Shri Gariba
R/o Umari Tehsil Gangapurcity,
District Sawaimadhpur.

3. Mangal s/o Shri Sannu
R/o Railway Bijali Ghar Ke pass,
Ward No.6, Gangapurcity,
Sawaimadhopur.

4. Har Govind Singh s/o Shri Puran Singh
R/o. Nimoda, Tehsil Sapotara,
District Karuali.

5. Soniji Jogi s/o Shri Badri Jogi
R/o Village Nimoda, Tehsil
Sapotara, District Karuali.

6. Kailash s/o Shri Ramphool
R/at. Umari, Tehsil Gangapurcity,
District Sawaimadhopur.

7. Lal Chand s/o Shri Narayan
Village Nimoda, Tehsil Sapotara,
District Karuali.

8. Ghanshyam Lal Mahawar
s/o Shri Koli Lal
R/o Nimoda Station,
Via Mahukala, District Karuali.

9. Bhambal s/o Kunja
R/at. Village Bucholai, Tehsil
Gangapurcity,
District Sawaimadhopur.

10. Kanna s/o Gangadhar
R/o Gordhanpura,
Tehsil Sapotara,
District Karuali.

11. Moti s/o Shri Aabodia
R/at. Village Gordhanpura,
Tehsil Sapotara,
District Karuali.

12. Ghanshyam s/o Shri Bansi
R/o. Amli Station,
District Tonk.

13. Hajari S/o Shri Sukhpal
R/o. Vilalge Amirpura,
Omli Uniyara,
District Tonk.

14. Prahlad s/o Shri Dhanna
R/at. Badalav, Tehsil
Srimadhopur,
District Sawaimadhopur.

15. Chhotu Lal s/o Shri Gyarsi Lal Bairwa
Village Jinapur, Tehsil Sawaimadhopur,

District Sawaimadhopur.

16. Lallu Ram Sharma
s/o Shri Mool Chand Sharma
Village kadi Patti, Post
Talawada, Tehsil Gangapur City,
District Sawaimadhopur.

17. Jagdish s/o Shri Sukha Ram
Village Dhanawali, Tehsil
Hindon, District Karoli.

18. Ramji Lal s/o Shri Inder Raj Meena
R/o. Kherla Ki Jhopdi,
Tehsil Sapotara, District
Karoli.

19. Ramcharan s/o Shri Inderraj
R/o Kherla Ki Jhopdi,
Tehsil Sapotra,
District Karoli.

20. Moharpal s/o Shri Mansukh
R/o Village Ladpura, Post
Khandar, Tehsil & Distt.
Sawaimadhopur. **... Applicants**

(By Advocate Shri C.P. Sharma)

VERSUS

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Office of General Manager,
West Central Railway,
Indira Market,
Jabalpur (M.P.)

3. Divisional Railway Manager
through its office Divisional

Railway Manager,
Personnel Branch, Kota. ... **Respondents**

(By Advocate Shri Mr. Anupam Agarwal)

OA No.528/2012

Shri Shiv Charan s/o Shri Sugan
R/at. Village Baad Titwara,
Tehsil Gangapur City,
Distt. Sawaimadhopur. ... **Applicant**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Office of General Manager,
West Central Railway,
Indira Market,
Jabalpur (M.P.)

3. Divisional Railway Manager
through its office Divisional
Railway Manager,
Personnel Branch, Kota. ... **Respondents**

(By Advocate Shri Mr. Anupam Agarwal)

OA No.622/2012

1. Mahavir Prasad
s/o Shri Ram Ratan Meena,
R/o Gopal Mill Colony,
Rangpur Road,
Kota Junction, Kota.

2. Jugal Kishore
s/o Shri Ganga Ram
R/at. Village & Post Kamalpura,
Via Morak, Tehsil Ramganj Mandi,
District Kota. .. **Applicants**

(***By Advocate Shri C.P. Sharma***)

VERSUS

1. Union of India through
General Manager,
West Central Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Office of General Manager,
West Central Railway,
Indira Market,
Jabalpur (M.P.)

3. Divisional Railway Manager
through its office Divisional
Railway Manager,
Personnel Branch, Kota. ... **Respondents**

(By Advocate Shri Anupam Agarwal)

OA NO.840/2012

1. Islamuddin s/o Kale Khan
R/o Cariage Colony,
Gangapur City, Distt.
Sawaimadhopur (Raj.)

2. Abdul s/o Salani
R/o. Shekpada,
Hindon City, Karoli.

3. Jabbar Khan s/o Shakur Khan
R/o. Chuli Ki Bagichi,
Gangapurcity, Distt.
Sawaimadhopur (Raj.)

4. Om Prakash s/o Shri Kishan Lal
R/o. Khanpura Tehsil
Gangapurcity, Distt.
Sawaimadhopur (Raj.)

5. Heera Lal s/o Shri Manphool
R/o. Gram Tunda Tehsil
Sapotara Distt. Karoli (Raj.)

6. Abdul Aziz s/o Bundoo Khan
R/o. Chuli ki Bagichi,
Tehsil Gangapurcity,
Distt. Sawaimdhopur (Raj.)

7. Niranjan Lal s/o. Ramesh Chand
R/o. Mahu, Tehsil Vair,
Bharatpur (Raj.)

8. Nasruddin s/o Ramjjan
R/o. Chuli ki Bagichi,
Tehsil Gangapurcity,
Distt. Sawaimdhopur (Raj.)

9. Rajjuddin s/o Sultan Ahmed
R/o. Kirpada Tehsil Gangapurcity
Distt. Sawaimadhopur (Raj.)

10. Govind Lal s/o Khanaya Lal,
R/o. Gurunanak Road,
Tehsil Gangapurcity,
Distt. Sawaimadhopur (Raj.)

11. Farook Ali s/o. Bundu Khan
R/o. Chuli ki Bagichi,
Tehsil Gangapurcity
Distt. Sawaimadhopur (Raj.)

12. Natti Lal Khuswah s/o Bhola Ram
R/o Veupura, Tehsil Kheragarh,
Agra. **... Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.) ... **Respondents**

(By Advocate Shri Anupam Agarwal)

OA No.841/2012

1. Devi Charan Gupta
s/o Lalluram Gupta
R/o. Devi Store Circle,
Gangapurcity District
Sawaimadhopur (Raj.)

2. Ayub Khan s/o Shri Kadri Khan
R/o Karji Colony,
Mahukala, Tehisl Gangapurcity
Distt. Sawaimadhopur (Raj.)

3. Raffiq Khan s/o Ajaji Khan
R/o Kutakpur Post Sanet,
Tehsil Hindon, District Karoli (Raj.)

4. Ramji Lal s/o. Shri Ramnath
R/o Sahid Bhagat Singh
Kacchi Basti, Gali No.1,
Rangpur Road, Kota (Raj.)

5. Bhanwar Singh s/o Amer Singh
R/o. Gram Macchipura Post Bhuchalai,
Tehsil Gangapurcity Distt,
Sawaimadhopur (Raj.)

6. Mukesh s/o Shri Girdhari
R/o. Gram Shukhpur,
Sharuli Tehsil Gangapurcity,
District Sawaimadhopur.

7. Subash Chand Agarwal

s/o Shri Shivcharan Lal Agarwal,
R/o. Bhianiya Pada, Hindoncity
District Karoli.

8. Nawab s/o Shri Shakur
R/o. Gram Kutakpur,
Post Sanet,
Tehsil Hindon City,
District Karoli.

9. Naffes Khan s/o Shri Bundu Khan
R/o. Namnaiyer, Sindhi Colony,
Near Jhulelal Mandir,
Tehsil Gangapurcity,
District Sawaimadhopur.

10. Isamuddin s/o Mahbub
R/o. Near Truck Union,
Ghas Mandi, Tehsil
Gangapurcity,
District Sawaimadhopur.

11. Islamuddin s/o Shri Ismile Khan
R/o. Loco Colony, Near Quarter
No.632 Gangapurcity,
District Sawaimdhopur. **... Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.) **... Respondents**

(By Advocate Shri Anupam Agarwal)

OA No.842/2012

1. Ganga Sahay s/o Shri Kishan Lal
R/o. Khanpur Badada ki Dhani,
Bandanpura, Post Mahukala,
Tehsil Gangapurcity,
Distt. Sawaimadhopur (Raj)

2. Rambharosi Bairwa s/o Susaram Bairwa
R/o. Sanjay Colony,
Tehsil Gangapurcity,
Distt. Sawaimadhopur (Raj.)

3. Gopal Sharan Sharma
s/o Shri Ramsahay Sharma
R/o. Near Police Station Dungar
Tehsil Gangapurcity,
Distt. Sawaimadhopur (Raj.)

4. Radhakishan s/o. Shri Ramdev
Behind Railway Station,
Gurudwara Road, Ward No.19,
Tehsil Gangapurcity,
Distt. Sawaimadhopur (Raj.) **... Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.) **... Respondents**

(By Advocate Shri Anupam Agarwal)

OA No.19/2013

1. Devi Lal s/o Maanphool
R/o. Village Balwantpura,
Tehsil Sapotra, District Karoli (Raj.)

2. Gulam Rabani s/o Gulam Mohamaad
R/o. Near Nana ki Mansid,
Tehisl Gangapurcity,
Distt. Sawaimadhopur (Raj.)

3. Mohammad Anwar s/o Noor Mohammad
R/o. Shayamdas ke Balaji ke Pass
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

4. Mannphool S/o Shri Rang Lal
R/o Balwanpura, Tehsil
Sapotara District Karoli (Raj.)

5. Ram Prasad s/o Mishra Nand
R/o Balwantpura Tehsil
Sapotara District Karoli (Raj.)

6. Ramdhan s/o Shri Hardev
R/at. Balwantpura Tehsil
Sapotara District Karoli (Raj.)

7. Hari Lal s/o Shri Ramji Lal
R/o Village Kandip,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

8. Ram Prakash s/o Shri Babu Singh
R/o Radh Kishan Mandir ke pass,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

9. Ramdhan s/o. Shri Ramji Lal
R/o Village Kandip, Tehsil
Gangapurcity, District
Sawaimadhopur (Raj.)

10. Guman Singh s/o. Kesar Singh
R/o. Village Chandkheri Post

Sagaria Mansur.

11. Abdul Sattar s/o Nannu Khan
R/o Chulli ke Bagichi, Tehsil
Gangapurcity,
District Sawaimadhopur (Raj.)

12. Abdul Wahid s/o Abdul Razak
R/o. Shahed Post Paach Pahada,
District – Jhalawar (Raj.)

13. Deepak Chand Tiwari s/o Ramnik Lal
R/o Chuli Gate, Nasima ka Rasta,
Medhi ki Kohti ke samena,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

14. Rajju s/o Mangya
R/o. Madina Masjid, Chuli Darwaja,
District Sawaimadhopur (Raj)

15. Islamuddin s/o Ramjan Khan
Bahukala, Ekta Colony,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.)

16. Rameshwar Lal Gurjar
s/o Shri Prabhu Lal Gurjar
R/o Post Mohukala, Amit Colony,
Tehsil Gangapurcity District
Sawaimadhopur (Raj.)

17. Akber Ali s/o Hussain
R/o. Kirpada Masjid ke pass,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

18. Shahid Ali s/o Samsahad Ali
R/o Nasia Colony, Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

19. Puran s/o Narayan
R/o Hasanpura – A, N.B.C.
Jaipur (Raj.)

20. Chiranji Lal s/o Rambal Mali
R/o Village Gajrajpal Badoda,
Tehsil Sapotara,
District Karoli (Raj.)

21. Ramji Lal s/o Shri Kajodaya
R/o. Village Gajrajpal Badoda,
Tehsil Sapotara,
District Karoli (Raj.)

22. Kamal Singh Gurjar s/o Sukhji Gurjar
R/o. Village Lodha
Tehsil Nadoti,
District Karoli (Raj.)

23. Babu Lal Gurjar s/o Ratan Lal
R/o Karoli Road, Saloda,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

24. Ramdhan s/o Shri Kishore Mali
R/o. Gram Vanderpura, Tehsil
Gangapurcity District
Sawaimadhopur (Raj.)

25. Ramroop Mali s/o Dhondaya
R/o. Mahukala,
Tehsil Gangapurcity,
District Sawaimadhopur
(Raj.) **... Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.)

3. Divisional Personnel Officer,
office of Divisional
Railway Manager,
Personnel Branch,
West Central Railway Kota. ... **Respondents**

(By Advocate Shri Anupam Agarwal)

O.A.No.20/2013

1. Ashok S/o Mandal,
R/o. Harijan Basti,
Tehsil Gangapurcity,
Distt.Sawaimadhopur (Raj.).

2. Rajveer Singh S/o Dharampal Singh,
R/o. Q-T/52, Railway Colony,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

3. Sher Singh S/o Shri Bhagwan Singh,
R/o Nasia Colony, PMT Quarter,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

4. Nawal Singh S/o Shri Bhagwan Singh,
R/o Nasia Colony, PMT Quarter,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

5. Rahise Mohmmad S/o Nasruddin,
R/o Shastri Park ke pass,
Kipada, Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

6. Shaktidan Singh S/o Prabhu Singh,
R/o Nasia Colony,
Gangapurcity,
District Sawaimadhopur.

7. Babuddin S/o Allahnoor,
R/o Gangapurcity,
District Sawaimadhopur.

8. Prem Kumar S/o Durga Lal,
R/o Kolipada,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

9. Ram Prasad Yogi S/o Madho,
R/o Village, Dhingala,
Gangapurcity,
District Sawaimadhopur (Raj.).

10. Ghanshyam Bairwa S/o Nanga,
R/o Gram Raghuvanti post,
Station Sawaimadhopur (Raj.).

11. Abdul Shahid S/o Ghisaya,
R/o Nasia Colony, PMT Quarter,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.).

12. Moh. Salim s/o Dina Kha
R/o. Chuli Gate,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

13. Islam Mohmmad s/o Alladin
R/o. Chuli Gate,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

14. Kailash Chand Gupta s/o Birjmohan
R/o Arya Sama,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

15. Abdul Kadir s/o Bashir Khan
R/o. Dashera Madan,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

16. Abdul Shakil s/o Gaffar
R/o. Chuli ki Bagichi,
Gangapurcity,
District Sawaimdhopur (Raj.).

17. Shiv Kumar Sharma s/o Babu Lal Sharma
R/o Hadoti Colony,

Gangapurcity,
District Sawaimdhopur (Raj.).

18. Akbar Ali s/o Hussan
R/o Kirpada, Gangapurcity
District Sawaimdhopur (Raj.).

19. Abdul Sami s/o Abdul Gani
R/o Chuli ki Bagichi,
Gangapurcity,
District Sawaimdhopur (Raj.).

20. Vijay Singh s/o Kishan Lal
R/o Jatav Basti,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

21. Nathi Khan s/o Kirodi Khan
R/o Gram Post Madanpur,
Tehsil Bayana,
Bharatpur (Raj.).

22. Ramesh Chand s/o Itwari
R/o Village Lapawali,
Tehsil Tadabhim,
Hindoncity, Karoli.

23. Ghanshyam s/o Itwari
R/o Loko Masjid ke piche,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

24. Babu Lal Mahawar s/o Kishore
R/o Nasai Colony,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

25. Meghraj Mahawar s/o Ram Lal
R/o Subhash Colony,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

26. Ram Gopal s/o Ratan Lal
R/o Tullapura,
Tehsil Ladpura

District Kota.

27. Abdul Razak s/o Ghuria
R/o Logo Colony,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

28. Abdul Jamil s/o Bashir
R/o Chuli ki Bagichi,
Tehsil Gangapurcity,
District Sawaimdhopur (Raj.).

29. Kapoor Chand s/o Ram Prasad
R/o Naya Gaay Mirjapur,
Gangapurcity,
District Sawaimadhopur (Raj.)

30. Ikramuddin s/o Farid Khan
R/o Dholi Khar Kahar Ghat,
District Karoli.

31. Brijmohan s/o Manphool
R/o Balwantpur,
Tehsil Sapotara
District Karoli (Raj.)

32. Heera Lal s/o Harphool,
R/o Village Edalpura ki Dhani,
Tehsil Sapotara
District Karoli (Raj.)

33. Suresh Rathod s/o Kanta Prasad
R/o Shastri Colony,
Gangapurcity,
Sawaimdhopur (Raj.).

34. Ram Prasad s/o Kishan Lal
R/o Village Laxman Colony,
Manadpur (M.P.)

35. Kishore s/o Nathu Harijan,
R/o Railway Colony,
Tehsil Garsade
District Mansur (M.P.).

36. Fehmid Khan s/o Abdul Karim
R.o Onkar Bhawan,
Shyamgarh, Garoth (M.P.)

37. Abdul Farukh s/o Abdul Hai
R/o. Urdu School ke pass,
Shyamgarh
District Mansur (M.P.)

38. Ramlabai w/o Sonnuji
R/o Shyamgarh
District Mansur (M.P.)

39. Gopal S/o Kishan
R/o Subhash Marg, Shyamgarh,
Mandsor (M.P.)

40. Mangi Lal s/o Moolchand,
R/o Mijala Mohalla
Tehsil Garot,
District Mansor (M.P.)

41. Bhawani Shankar s/o Jyoti Rao
R/o Jagner Road,
Kamal Kha Agra.

42. Geeta w/o Ramesh
R/o Q.No.77-T, Railway
Quarters, Tehsil Gehroth,
District Mandsor (M.P.)

43. Shyamaidar Pal s/o Dhyanpal
R/o Nasai Colony,
Gangapurcity,
District Sawaimadhopur (Raj.)

44. Naresh Kumar s/o Nanak Singh
R/o Nasai Colony, Gangapurcity
District Sawaimadhopur (Raj.)

45. Kamod Lal Gurjat s/o Latoor Lal
R/o Village Badara,
Tehsil Gangapurcity,
District Sawaimadhopur

46. Rajkumar s/o Ajant Singh
R/o Village Budaech,
Post Jaisher Road,
District Hathrash.

47. Brij Lal s/o Harati
R/o Choda Gaw,
Tehsil Sapotara,
District Karoli (Raj.)

48. Suresh s/o Sharvan
R/o Bada Mohalla,
Tehsil Gangapurcity,
District Sawaimadhopur.

49. Sabuudain s/o Ismail
R/o Udai Mand Chammanpura,
Tehsil Gangapurcity,
District Sawaimadhopur.

50. Rasid Ali s/o Mohd Ali
R/o Kakhato ki Bagichi,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

51. Bhagwan Das s/o Kalu Ram
R/o. Gandhi Colony,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

52. Anwar Ali s/o Kalawan Khan
R/o Chuli ki Bagachi
Tehsil Gangaprucity,
District Sawaimadhopur. ... **Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.)

3. Divisional Personnel Officer,
office of Divisional
Railway Manager,
Personnel Branch,
West Central Railway Kota. ... **Respondents**

(By Advocate Shri Anupam Agarwal)

OA No.21/2013

1. Rajendra Kumar Sharma
s/o Shri Ram Vilas Sharma
R/o Near High Secondary School,
Gandhi Nagar,
District Sawaimadhopur (Raj.)

2. Abdul Gaffar Khan
s/o Shri Abdul Gaffar Khan
R/o New Railway Colony,
Near I.O.W. Banglow,
Gangapurcity District
Sawaimadhopur (Raj)

3. Jamna Lal s/o Shri Shioji
R/o. Village Salat
Tehsil Hindon, District Karoli (Raj)

4. Dharmendra Kumar Bharti
s/o. Shri Mukat Singh Verma
Rang Lal, R/o. Ghandi Colony,
Ward No.19, Gangapurcity,
District Sawaimadhopur (Raj.)

5. Panna Lal s/o Shri Chiman Lal
R/o outside Pathan Khidkiya,
Ward No.31, Karoli (Raj.)

6. Manzur Ali s/o Shri Mohd. Hussian
R/o J.P. Colony Rangpur Road,

in front of Shiv Mandir,
Kota (Raj.)

7. Ram Dev s/o. Shri Vishnath Jha,
R/o. Saraswati Colony,
Roriada Road, Kota (Raj.)

8. Digamber s/o Shri Chandan Jha,
R/o. J.P. Colony, Rangpur Road,
Kota (Raj.)

9. Jai Singh s/o Shri Ramcharan
R/o J.P. Colony Rangpur Road,
in front of Shiv Mandir,
Kota (Raj.)

10. Bijendra Singh s/o Shri Jugan Singh
R/at. Village Chara Post Mahukala
Tehsil Gangapurcity District
Sawaimadhopur.

11. Narsee Gujar s/o Shri Ram Narayan
R/o. Village Khidarpur Dangari
Tehsil Sapotra District Karoli (Raj.)

12. Abdul Salim s/o Shri Abdul Sattar
R/o Chawani, in front of Ek Minar ki
Maszid, Kota (Raj.)

13. Raies Khan s/o Abdul Waied
R/o Plot No.126, Shivaji Colony,
Gali Ni.1, Kota (Raj.)

14. Duyshant Kumar s/o Shri Gouri Sahay
R/o. Near Gurudwara, Kota (Raj.)

15. Abdul Salim s/o. Abdul Kayyum
R/o. Sanjay Nagar, Rangpur Road,
Kota (Raj.)

16. Rajendra Kumar s/o. Shri Sohan Lal
R/o. in front of Madras Hotel,
Kota (Raj.)

17. Hukum Chand s/o Bheru Lal
R/o. Village Rothedha Tehsil

Ladpura District Kota (Raj.)

18. Amrit Mohan s/o Niranjan Prakash
R/o Housing Board Colony, Ganeshpura,
Kota (Raj.)

19. Om Prakash s/o. Shri Latoor Lal
R/o. Village Bhadana kt tapir shanshaa
Road, Tehsil Ladpura Post Kishanpura,
District Kota (Raj.)

20. Shioji Lal s/o Mishri Lal
R/o. Village Lorma Tehsil Nanwa,
District Bundi (Raj.)

21. Gopal Lal Mali s/o Shri Mithu Lal Mali
R/o. Mahu kala ki Dhani,
Gangapurcity,
District Sawaimadhopur (Raj.)

22. Ram Charan s/o. Shri Mitiya,
R/o. Bhucholi, Ganga
Gangapurcity,
District Sawaimadhopur (Raj.)

23. Kamlesh Ragir s/o Ram Sahay Ragir
R/o. J-742,
Near Narsingh Baba Mandir,
Purana Ghat,
Agra Road,
District – Jaipur (Raj.)

24. Ram Niwas s/o Shri Buddha Mali
R/at. Meenapada (Shyampura),
Gangapurcity,
District Sawaimadhopur (Raj.)

25. Somraj s/o Shri Ramnarayan Meenam
R/o. Village & Post Mahva Tehsil
Gangapurcity,
District Sawaimadhopur (Raj.)

26. Lohrey s/o Shri Kishan Lal
R/o. Village Bhalpur
Post Mohchra, Gangapurcity

District Sawaimadhopur (Raj.)

27. Badri s/o Shri Birbal
R/o. Village Pholware Papat
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

28. Shri Lal s/o Shri Latoor Lal
R/o. Railway Station, Keshavraipatan
District Bundi.

29. Ramesh Chand s/o Shri Moti Singh
Ward No.1, Behind Shiv Mandir,
Sugar Mill, Keshavraipatan,
District Bundi.

30. Durga Lal s/o Shri Chotta Lal
R/o. Ward No.1, Indra Colony
Keshavraipatan, District Bundi.

31. Madan Lal s/o Shri Gajanand
R/o. Railway Station,
Ganesh Ji Ka Phatak,
Tehsil Keshavraipatan,
District Bundi.

32. Mahesh Kumar s/o Shri Amar Chand,
R/o Nasia Colony, Near Shastri
Park, Gangapurcity,
District Sawaimadhopur (Raj.)

33. Ram Prasad s/o Shri Ram Chandra
R/o Bada Sogaria District Kota

34. Phool Singh s/o Bhagwan Singh
R/o Nasia Colony, Gangapurcity,
District Sawaimadhopur (Raj.)

35. Kamlesh s/o Ramsahai,
R/o. J-742, Near Narsingh
Baba Temple, Agra Road,
Jaipur.

36. Rajendra Kumar Mathur
s/o Nathi Ram,
R/o. H.N.9, Nasia Colony,

Near Shastri Park,
Gangapurcity,
District Sawaimadhopur (Raj.)

37. Bhagwati Prasad Lodha
s/o Gangaram Rajput
R/at. L.N. Phatak (T.T.E.)
Nasia Colony, Gangapurcity,
District Sawaimadhopur (Raj.)

38. Gopal Lal Mali s/o. Dhuliya
R/o. Kour Pada Near Shastri
Park, Gangapurcity,
District Sawaimadhopur (Raj.)

39. Mahaveer s/o Ganesh Ram,
R/o. Village Sogriya Tehsil
Ladpura District Kota.

40. Hanuman Prasad s/o Devi Lal
R/o. Village Sogriya
Tehsil Ladpura,
District Kota.

41. Gulab Chand s/o Prabhu Lal
Village Sogriya
Tehsil Ladpura,
District Kota.

42. Chatru Lal s/o Devi Lal
Village Gavdi,
Rangpur Road Post
Kishanpura Takia,
Tehsil Ladpura,
District Kota.

43. Gouri Lal Meena s/o Prabhu Lal
R/o. Village Challa Post Liloti
Tehsil Basadi,
District Dholpur.

44. Durga Lal s/o Ravadia Lal
R/o. Sanjay Colony, Behind
Railway Station, Gangapurcity,
District Sawaimadhopur.

45. Ramdas s/o Narayan

R/at. Tatwara Tehsil Gangapurcity
District Sawaimadhopur.

46. Ramdas Harijan s/o Narayan
R/o. Narayanpur Tehsil Gangapurcity
District Sawaimadhopur.

47. Shanti Bai w/o Papu Singh
R/o 48 TC, Railway Colony,
Shyamgarh (M.P.)

48. Dhan Singh Gurjar
s/o Bhola Ram Gurjar
R/o. Sahajpura Post Gadal,
Tehsil Gangapurcity,
District Sawaimadhopur.

49. Pramod Kumar Sharma
s/o. Kishanram Sharma
R/o Nasia Colony,
Janki Badi,
Near Hanuman Temple,
Tehsil Gangapurcity,
District Sawaimadhopur.

50. Abdul Sattar s/o Mohmad
R/o. Chuli ki Bagichi,
Gangapurcity,
District Sawaimadhopur.

51. Abdul Jabbar
s/o Chunna Khan
R/o. Near Madina Musjid,
Tolikhar Tehsil
Karoli, District Karoli.

52. Salam s/o Kamaluddin
R/o Badi Udai,
Gangapurcity,
District Sawaimadhopur.

53. Sabir s/o Sher Khan
R/o. Near Jama Masjid
Islampura, Gangapurcity,
District Sawaimadhopur.

54. Nanay s/o Nadan
R/o loco Masjid, Gangapurcity,
District Sawaimadhopur.

55. Majid s/o Nadan,
R/o Loco Masjid,
Gangapurcity,
District Sawaimadhopur.

56. Abdul Rasid s/o Abdul Ajij
R/o Subesh Nagar Bubmi
Yojan, House No.311,
Near Track Union District
Kota.

57. Shakir Ali s/o Shamshad Ali
R/o Nasaia Colony,
Shastri Park,
Gangapurcity,
District Sawaimadhopur.

58. Ayub Khan s/o Yasin Khan
R/o. Village Salampur,
Sapotara, District Karoli.

59. Shakil Ahmed s/o Shafi
Knakpur Savar Tehsil
Hindon District Sawaimadhopur.

60. Nanay s/o Shakur Khan
Krampura, Hindon
District Sawaimadhopur.

61. Naimuddin s/o Moinuddin
R/o Tulapur, Kota Junction Kota.

62. Jaswant Singh s/o. Ram Singh
R/o. House No.479, Bhoi Mohalla,
Chawani Tehsil
Ladpura, District Kota.

63. Jagendra Singh s/o Kunwar Singh
R/o. House No.111-B, Near Hanuman
Mandir, Gandhi Nagar,

Ladpura District Kota. ... **Applicants**

(**By Advocate Shri C.L. Saini**)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.)

3. Divisional Personnel Officer,
office of Divisional
Railway Manager,
Personnel Branch,
West Central Railway Kota. ... **Respondents**

(**By Advocate Shri Anupam Agarwal**)

OA No.258/2013

1. Murari Lal Saini
s/o Narayan Saini
R/o Gram Chaba Ki Bagichi,
Tehsil Gangapurcity,
District Sawaimadhopur (Raj.)

2. Prasadi s/o Shri Chhota Lal
R/o. Village Boccholai Tehsil
Gangapurcity District Sawaimadhopur
(Raj.)

3. Ram Khiladi s/o Shri Ghodaiya
R/o Village Boccholai Tehsil
Gangapurcity
District Sawaimadhopur (Raj.)

4. Devi lal s/o Shri Bhoriya
R/o Village Boccholai Tehsil
Gangapurcity District Sawaimadhopur
(Raj.)

5. Ram Phool Bairwa s/o Shri Omkar
R/o Village Boccholai Tehsil
Gangapurcity District Sawaimadhopur
(Raj.)

6. Kayum Khan s/o Abdul Kadir
R/o Mahukala Ward No:1,
Gangapurcity District
Sawaimdahopur (Raj.)

7. Prathvi Raj s/o Shri Kalyan
R/o Mirjapur Tehsil Gangapurcity
District Sawaimdahopur (Raj.)

8. Dwarka s/o Dharm Singh
C/o. Nand Singh ji Boaipada
Chawani Kota (Raj.)

9. Mustak Ahmed s/o Mukhtaiyar Khan
R/o Purani Basti Railway Colony
73 E, Block A, Near by Tulapura
Kota (Raj.)

10. Chandra Parkesh s/o Shri Harti Lal
Plot No.217-k, Badi Basti,
Achnara District Agra (U.P.)

11. Jai Narayan s/o Damodar
R/o Station Road, in front of
Bajriya Guest House,
Tea Shop, Gangapurcity
District Sawaimdhopur (Raj.)

12. Shyam Lal s/o Bhuraji
R/o Shyamgarh District
Mandsor (M.P.)

13. Ghisia Lal s/o Johriya Lal
Subash Colony, Ward No.17,
Gangapurcity District

Sawaimdahopur (Raj.)

14. Lella Bai w/o Mangal
R/o Meena Maholla,
Near Handpump, Ghandhi
Nagar aajamgargh,
Shayamgargh, Mandsor (M.P.)

15. Nathu Lal s/o Moolchand
R/o Amit Colony, Gujar Mohalla,
Mahukala, Gangapurcity
District Sawaimdahopur (Raj.)

16. Hari s/o Chiranji Lal
R/o Gram Dagadi,
Post Khidarpur,
Tehsil Sapotara,
District Karoli.

17. Mahendra s/o Prabhu Lal
R/o Sahajpur, Post Ghadal,
Gangapurcity District
Sawaimdahopur (Raj.)

18. Girraj s/o Phool Singh
R/o Gram Dagadi, Post
Khidarpur, Tehsil
Sapotara, District Karoli.

19. Mohan Lal s/o Ratan
R/o Gram Dagadi, Post Khidarpur,
Tehsil Sapotara,
District Karoli.

20. Pappu s/o Ghanshyam
R/o Chuli, Post Chuli,
Gangapurcity District Sawaimdahopur
(Raj.)

21. Panna s/o. Sujan
R/o Panchayat Narayanpur,
Tattwada, Gangapurcity
District Sawaimdahopur (Raj)

22. Saggir Mohmmed s/o Roshan Lal
R/o Chuli Ki Bagichi,
Tehsil Gangapurcity
District Sawaimadhopur

23. Gouri Lal Meena s/o Pabhu Lal
R/o Village Chala Post
Liloti Tehsil
Basadi District Dhlopur (Raj.)

24. Shyam Murari s/o Narayan Lal
R/o Near By Ambedkar Dharamshala,
Gangapur City,
District Sawaimadhopur (Raj.)

25. Rajendra Singh Dua s/o Hansraj
R/o Mahukala Tehsil Gangapurcity
District Sawaimadhopur.

26. Vijay Kumar s/o Amar Chand
R/o Chuli ki Bagichi
Tehsil Gangapurcity
District Sawaimadhopur.

27. Mahesh Kumar s/o Amar Chand
R/o. Nasia Colony, Gangapurcity
District Sawaimdahopur (Raj.)

28. Kalal s/o Abdul Rashid
R/o Kachawa Pada, Pillu Wali
Masjid, Hindon, Karoli (Raj.)

29. Shankar Lal s/o Sugan Mali
R/o Chaba ki Bagichi,
Tehsil Gangapurcity
District Sawaimadhopur.

30. Ram Charan s/o Budha Ji
R/o Behind Chamble Colony,
Harijan Basti,
Sakatpur, Kota.

31. Suresh Prasad s/o Prasadi
R/o Behind Harijan Railway Station
Gangapur City, District

Sawaimadhopur (Raj.)

32. Nawab Khan s/o Chirmoli
R/o Nasiya Colony,
Near by Kirpada Masjid,
Ward No.15, Tehsil Gangapurcity
District Sawaimadhopur.

33. Ramesh Chand Sharma s/o Manhor Lal Sharma
Village & Post Tatwara,
Tehsil Gangapurcity District
Sawaimadhopur.

34. Ashok Kumar s/o Radha Mohan Verma
R/o Nasiya Colony, Gangapur City
District Sawaimadhopur (Raj.)

35. Rafiq Ahmed s/o Dina Khan
R/o Chuli Gate, Gangapur City
District Sawaimadhopur (Raj.)

36. Babu Singh s/o Sher Singh
R/o Jindal Hospital,
Mukarji Nagar, Bharatpur.

37. Amain s/o Bhure Khan
R/o Rajiv Colony, Ward No.1,
Gangapurcity District
Sawaimdahopur (Raj.)

38. Abdul Habib s/o Akbar
R/o Aatmabai Mohalla,
Chandalia, Ward No.18,
Kaitun, Kota.

39. Rashid Ali s/o Mohamed Ali
R/o Lakhero Ki Bagichi,
Ward no.14, Gangapurcity
District Sawaimdahopur (Raj.)

40. Lahari s/o Chiranji Lal
R/o Khidarpur, Tehsil Sapotara,
District Karoli.

41. Rajendra Kumar Sharma
s/o Jagan Lal
R/o Saharoli, Gangapurcity,
District Sawaimdahopur (Raj.)

42. Badrudin s/o Mohamed Yakub
R/o Nasia Colony, Shastri Nagar
Gangapurcity, District
Sawaimdahopur (Raj.)

43. Anwar Hussain s/o Mohhamaad Khan
R/o Rajiv Colony, Ward No.1,
Gangapurcity District
Sawaimdahopur (Raj.)

44. Abdul Laikh s/o Abdul Latif
R/o Kairig Colony Mahukala,
Ward No.1, Gangapurcity
District Sawaimdahopur (Raj.)... **Applicants**

(**By Advocate Shri C.L. Saini**)

VERSUS

1. Union of India through
General Manager,
Central-Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.)

3. Divisional Personnel Officer,
office of Divisional
Railway Manager,
Personnel Branch,
West Central Railway Kota. ... Respondents

(**By Advocate Shri Anupam Agarwal**)

OA No.49/2014

1. Om Prakesh Shrama
s/o. Shri Madho Lal Shrama,
R/o Tilak Bazar, in front of Bagoria
Store Tehsil Gangapurcity
District Sawaimadhopur (Råj.)

2. Shree Kishan s/o Shri Tundaya
R/o. Balwantpura Tehsil
Sapotara District Karoli (Raj)

3. Ram Khiladi s/o. Bakshiram
R/o. Village Badmilakpur Post
Narayanpur Tatwara,
Tehsil Gangapurcity District
Sawaimadhopur (Raj.)

4. Mahmuda w/o. Late Shri Babu Khan
R/o. Pani Ke Tanki, Ram Rahim
Colony, Behind Deshraj (AEN)
Udaia Moad,
Lata House Gali, Gangapurcity,
District Sawaimadhopur (Raj.)

5. Pappu s/o. Ramji Lal
R/o. Ward No.9, Tehsil
Gangapurcity District
Sawaimadhoipur (Raj.)

6. Ram Swaroop s/o Surjan
R/o. Edalpur, Tehsil Sapotara
District Karoli (Raj.)

7. Kailash s/o Mangla
R/o. Edalpur, Tehsil
Sapotara District Karoli (Raj)

8. Basanta s/o Gokulram
R/o. Village Balwantpura,
Tehsil Sapotara District
Karoli (Raj.)

9. Rambabu s/o Shri Khayali Ram
R/at. T-571, Nasia Colony,
Shastri Nagar,
Gangapurcity District
Sawaimadhopur (Raj.)

10. Guru Dayal s/o Badri
R/o. Balwantpur, Tehsil
Sapotara District Karoli (Raj)

11. Gokul s/o Shiviji
R/o. Village Hardalpur Tehsil
Sapotara District Karoli (Raj.)

12. Murari s/o Tondya
R/o. Balwantpura, Tehsil
Sapotara District Karoli (Raj.)

13. Prabhati s/o Shri Jagan
R/o. Village Badmilakpur
Post Narayanpur Tatwara
District Sawaimadhopur (Raj.)

14. Ikram Mohmmed s/o Fateh Mohmmed
R/o Ikram Tailor Sumerganj Mandi
District Bundi (Raj.)

15. Fakrudin s/o Kamrudin
R/o Agarsen Colony,
Gangapurcity,
District Sawaimadhopur (Raj.)

16. Ram Gopal s/o Chiranji
R/o Edalpur, Tehsil Sapotara
District Karoli (Raj)

17. Batti Lal s/o Nathya
R/o. Edalpur Ke Dhani
Tehsil Sapotara District
Karoli (Raj.)

18. Girraj Singh s/o Bajrang Singh
R/o Chuli Gate Tehsil
Gangapurcity,
District Sawaimadhopur (Raj.)

19. Meghraj Mahawar s/o Ram Lal
R/o. Subhash Colony, Tehsil
Gangapurcity,
District Sawaimadhopur
(Raj.) ... **Applicants**

(By Advocate Shri C.L. Saini)

VERSUS

1. Union of India through
General Manager,
Central -Western Railway,
Jabalpur (M.P.)

2. Dy. Chief Personnel Officer (Recruitment)
Railway Recruitment Wing,
Officer of General Manager
Western Railway, Indira Market,
Jabalpur (M.P.)

3. Divisional Personnel Officer,
office of Divisional
Railway Manager,
Personnel Branch,
West Central Railway Kota. ... Respondents

(By Advocate Shri Anupam Agarwal)

ORDER

PER: SMT.CHAMELI MAJUMDAR, MEMBER (J)

These Original Applications were heard together since similar questions of law are involved in these matters and similar reliefs have been prayed for. Hence a common order is being passed

2. The common facts involved in these cases are that these Original Applicants have worked in Railway as Causal Labour for more than 120 days. The applicants have contended that they are entitled to be absorbed in the vacancies of Group 'D' which have arisen in Western Central Railway before filling up those vacancies by direct recruit. The respondents issued advertisement dated 19.01.2008 whereby the respondents were taking steps to fill up more than 3000 vacancies in various Group 'D' categories on direct recruitment basis. The applicants have challenged the said advertisement dated 19.01.2008. The applicants have also challenged the orders dated 18.01.2012, 02.02.2012, 03.02.2012, 13.02.2012, 21.02.2012, 22.02.2012 & 26.07.2012 whereby the representations of the applicant have been rejected.

3. More or less common case as made out by the applicants in these OAs are as follows:-

(a) That for the absorption of the casual labour in Group 'D' service in Indian Railway, a policy decision was taken by the Respondent Railway Department as per the directions issued

by the Hon'ble Supreme Court. The Indian Railway Department issued instructions vide policy dated 05.01.1993 wherein it was mentioned that a live register will be maintained only for the casual labourers. As per the said instruction, such casual labours after scrutiny were to be placed in a live register/supplementary live register. Vide letter dated 05.01.1993, the railway department also issued the instructions that a service card also be issued to the causal labourers which should be in the form of booklet and every individual engaged as casual labourers should retain that as documentary proof of his service. In the instant case, all the applicants were also issued service cards.

(b) That on 18.03.1987, the Indian Western Central Railway issued the instruction that such casual labours who worked as on 1.1.87 or after, the thumb impression may be obtained in the register.

(c) That on 16.04.1991 some vacancies of Safai Wala were filled up by the Indian Railway as

per the policy laid down and the said posts were filled up out of the casual labours from the live register.

(d) That vide order dated 21.10.2003 the Indian Railway issued a detailed and specific instruction to all the subordinate divisions that the vacancies of Group – D category should be filled up from the surplus staff available for redeployment, Causal labour on role, ex-casual labour on live registers and supplementary live registers. In the aforesaid order, the respondent Railway department specifically noted and issued the mandatory instructions to all the subordinate divisions that before recruitment in Group D category from open market, it should be ensured that the following conditions were fulfilled -

(a) Recruitment should have the personal approval of the GM.

(b) Such recruitment should be resorted only after exhausting the possibility of absorption (i) surplus staff available for the redeployment (ii) causal labour on role (iii) Ex casual labour on live registers and supplementary live registers.

(c) It is further clarified that General Managers are competent to fill up the back log the prescribed intake which could not be filled up due to various reasons from August, 2000 that is the date, the order of right seizing was issued excluding compassionate ground appointment.

(e) The applicants' contention is that from bare perusal of the letter dated 21.10.2003, it revealed that the respondent department itself imposed a condition to recruitment in Group D category from the open market that before such recruitment the possibility of the absorption from surplus staff available for redeployment, casual labour on role and ex causal labour on live registers and supplementary live registers would be satisfied.

(f) The Indian Railway did not follow the policy decision dated 21.10.2003 while resorting to fresh recruitment in the vacancies of Group 'D' post. The instant applicants are also ex causal labours but the respondent Railway department did not take a single step to absorb the applicants in Group D categories. The applicants and other similarly situated

candidates had been waiting for re-engagement/redeployment in Group 'D' category since long back but no effective action had been taken by the Indian Railway.

(g) That the department fully ignored the policy decision taken in its letter dated 21.10.2003 and issued a fresh advertisement on 19.01.2008 for recruitment on the post of Group D category from the open market.

(h) It has further been submitted that vide letter 21.10.2003, the railway department itself imposed a condition and gave the instructions to all the subordinate divisions that before recruitment in Group D category from open market, it should be ensured that there is any possibility of absorption of surplus staff available for redeployment, causal labour on role and ex casual labour on live registers and supplementary live registers, but the department failed to comply the instructions and the guidelines issued in letter dated 21.10.2003 and published the advertisement dated 19.01.2008 for recruitment

on the post of Group D category from the open market without ensuring possibility of the absorption of ex causal labours and surplus staffs.

4. The grievance of the applicants is that in terms of the policy decision taken by the respondents vide order dated 21.10.2003 the applicants have a preferential right to be appointed against the said Group 'D' post. Before appointing the applicants, the respondents could not have resorted to other methods of direct recruitment for filling up the aforesaid posts on regular basis.

5. Earlier all the applicants challenged the advertisement dated 19.01.2008 by which direct recruitment on the post of Group 'D' category was notified, by filing OA Nos.12/2009, 414/2010, 415/2010 and 512/2008 before the Central Administrative Tribunal, Jaipur. All these Original Applications were dismissed by the Central Administrative Tribunal, Jaipur Bench, Jaipur vide its judgment dated 22.12.2010. Against the aforesaid judgment, the applicants filed Writ

Petitions before the Rajasthan High Court, Jaipur Bench, Jaipur which came to be registered as D.B. Civil Writ Petition Nos.13621/2011, 6442/2011, 7117/2011, 7116/2011 and 7119/2011 respectively. The aforesaid Writ Petitions were disposed of by the judgment dated 16.12.2011 and 18.11.2011 by observing that since disputed facts were involved in those cases, the respondents should examine the facts and questions in accordance with the circular dated 21.10.2003. The Hon'ble High Court directed the applicants to submit a representation. The respondents were directed to consider and decide the representations by a reasoned order after holding a factual enquiry within a period of four months in the light of the circular dated 21.10.2003.

6. In pursuance of the said judgment dated 18.11.2011 and 16.12.2011, all the applicants filed a detailed representation to the respondents Railway Department. Alongwith the representation all the applicants also enclosed the photocopies of their service cards to prove that all the applicants worked in respondent department as a

causal labour.

7. By impugned communications/orders, the respondent railway department dismissed/rejected the representations. The respondent department rejected the representations on baseless grounds. It was admitted that earlier vide order dated 20.11.1992 the Railway Respondent Department instructed to all the Divisions that for regularisation/absorption of the causal labours, a live register would be maintained and after maintaining the live register such causal labours would be regularised against the vacant posts after conducting the screening. It was also stated by the respondent department in letter dated 13.02.2012, 21.02.2012 and 22.02.2012 that after conducting the screening, 613 causal labours were regularised on 04.09.1997 but the applicants were not considered for regularisation. It was also further stated that in the Kota Division all the casual labours had been regularised up to 04.09.1997 but now the applicants could not be regularised due to non availability of their records.

8. More or less common grounds taken by the

applicants in these OAs are as follows:-

"(a) The respondent department admitted that they have regularised 613 casual labours on 04.09.1997 but at that time applicants were not considered without any reason. Now the respondent department bluntly says that in present, the applicants cannot be regularised due to non availability of their records in the respondent department.

(b) That if the Railway Department have lost the service record of the applicants there is no fault on the part of the applicants and only due to non availability of service records, all the applicants cannot be deprived of regularisation. The Railway respondent department should maintain the similarity amongst the similarly situated causal labours, when the Railway Department itself admitted in their letter dated 13.02.2012, 21.02.2012 and 22.02.2012 that 613 casual labours have been regularised vide order dated 04.09.1997. It is not disclosed that what is the reason not to

consider the applicants at that time. After bare perusal of the Annex.A/1 it is transparent and proved that all the applicants worked as casual labours before 04.09.1997. No reason is stated in the impugned orders dated 13.02.2012, 21.02.2012 and 22.02.2012 as to why the applicants were not considered for regularisation at that relevant time, when all the similarly situated casual labours were regularised vide order dated 04.09.1997. All the applicants are entitled to be regularised on the post of Group 'D' category.

(c) That on earlier occasions, in the same identical matter, some ex-casual labours filled an OA No.77/95 and OA No.1260/98 before the Central Administrative Tribunal, Jaipur bench, Jaipur as well as Bench, New Delhi in which the Hon'ble Tribunal held that discriminatory treatment in the matter of re-engagment cannot be taken by the Railway department which offends the Article 14, 16 and also Article

21 of the Constitution of India. Thus the Railway Department was directed to re engage the applicants on the posts of causal labours with all consequential benefits.

(d) That against the judgment dated 12.03.1998 passed by the learned Tribunal , the respondent department also filed a writ petition bearing No.5506/1999 before the Hon'ble High Court and the same was also decided on 23.02.2000 and affirmed the order of the learned Tribunal. The relevant concluding para of the judgment is reproduced as under:-

> " a perusal of the order passed by the Central Administrative Tribunal merely indicates that the petitioner was directed to include the name of the respondents in the live casual labour register and to offer re-engagement if work is available in his own turn. We do not find any ground to interfere int his Writ Petition. The same is dismissed in *limine*."

(e) That the Western Central Railway Employees Union also raised the same grievances before the addressee railway department vide its letter dated 11.04.07 contending that Railway Board has issued

same guidelines and instructions by which ex causal labours borne on live casual labour registers will first be considered for absorption on the railways directly as per their turn according to their seniority based on total number of days put in by them as causal labours. But these instructions have not been complied with on Kota Division as a result of which a very large number of persons having worked as causal labours during the years from 1973-1991 in various departments are still eagerly waiting their turn for absorption. It was also contended that instead of absorbing the ex casual labours in Group – D service, 50-60 new faces have been regularly appointed after completely violating and in breach of the instructions issued by the railway department.

(f) That the Western Central Railway Ex-casual labour Union, Kota Division, Kota also issued a letter dated 23.06.2007 with the same grievances that the instructions

issued by the Railway Department are not followed and instead of absorption form ex casual labours on Group 'D' service, the fresh recruitment from the open market in Group 'D' categories has taken place which is completely violation of the Board's instructions.

(g) That the orders dated 13.02.2012, 21.02.2012 and 22.02.2012 cannot be sustained for a moment and deserve to be quashed and set aside inasmuch as it has been stated in the aforesaid letters that all the applicants could not be considered for regularisation or re-engagement because in the Kota Division the live register/supplementary live register were not maintained by the concerned authority and at the time of absorption from casual labours or ex casual labours, the applicants' service records were not available in the department. Hence, all the applicants are not entitled for regularisation on the post of Group 'D'

category. The contention of the respondent department cannot be sustained because if live register/supplementary live register are not maintained by the concerned authority and the service record of the applicants have been lost by the respondent department, there is no fault on the part of the applicants and due to the aforesaid reason these applicants cannot be deprived from regularisation of their service, when it is admitted by the respondent itself that similarly situated 613 causal labours have been regularised on the post of Group 'D' category in 1997.

9. The applicants have challenged the action of the respondents in issuing the advertisement dated 19.01.2008 whereby the respondents resorted to direct recruitment of 3168 vacancies of Group 'D' category in Traffic Porter, Trackman, Helper and Safaiwala etc. without following the Railway Board's policy decision of 21.10.2003. In terms of Railway Board letter dated 21.10.2003, all the applicants were issued causal labour cards.

Therefore, they were entitled to be absorbed against Group 'D' posts irrespective of the fact whether they worked for a few days or not since their names figured in the live/supplementary live register. Their further case is that in case casual labours who were not brought in the live/supplementary live register, it was fault on the part of the department and this fact could not preclude the applicants from seeking absorption against vacant Group 'D' posts.

10. The respondents have filed their replies to the Original Applications. The contentions of the respondents are more or less same in respect of the applications. However the relevant paragraphs from reply to OA No.480/2012 is set out herein below:-

(a) That the present Original Application has been filed by submitting Schedule 'A'. Bare perusal of the same would clarify that it is nothing but service period details based upon Annex-A/3. It did not contain their particulars in as much as no averment has been made with regard to their place of initial appointment. As per Annex-A/3 i.e. the service card of the

applicants they were engaged by the erstwhile Western Railway for a brief period only. As per order dated 21.10.2003 only those casual labour who are on roll or on live register and supplementary live register are entitled for absorption. Admittedly as it evident from Annex-A/3 applicant was neither of them at the time of issuance of the order i.e. 17.01.2003.

(b) That the present Original Application is also not maintainable in view of the fact that the applicant has failed to name any person by impleading them as party respondent who has been appointed by the answering respondents in derogation of the rights of the applicants. Therefore, also any prayer for the relief on the basis is not sustainable.

(c) Applicant has worked for a brief period in the year 1985. As per record the last screening of casual labours were done in the year 1997. As such any cause of action if arose was in the year 1997. Applicants failed to protest withing limitation since then. Thus applicants cannot ask for its benefits so as to bring the same

within limitation. Accordingly the present original application by the applicants is barred by limitation and deserved to be dismissed for this objection itself.

(d) As per the direction of the Hon'ble High Court the same has been decided by a reasoned and speaking order. Therefore, they are not entitled to file any application. As per master circular No.48 issued by Railway Board live register of casual labours were maintained at the Division level. Infact all the screenings were done as per it. Further bare perusal of it would clarify that those casual labour who are engaged for a very limited period during emergency need not be issued causal labour card. It is also important to mention here that many bogus cards were found to be issued at the relevant time which led to vigilance enquiry because of which they were not considered for screening. Presently recruitment to Group 'D' is made through Railway Recruitment Boards. Applicants have filed present Original Application in the year 2012 when it is

difficult to verify their labour card. Further in view of the fact that some of them were not even causal labour rather NAC has no claim at all. Even further to if the applicants have not placed the labour cards of all the candidates clearly proves that they were either not working or their credentials are doubtful. Therefore also they have no claims at this stage. Accordingly any request for the relief is without any substance at this stage.

(e) That the screening was done in pursuance to the direction of the railway board dated 03.09.1990 wherein 613 casual labours were screened and their services were regularised by order dated 04.09.1997. All those who were having eligibility in terms of railway board's directives were regularised. It was only those who did not fulfill the requisite eligibility had not been regularised. Applicants failed to protest against the same within limitation since then. As such they have no cause of action at this stage. Therefore, they cannot have any grievance at this stage.

(f) As such the advertisement dated 19.01.2008 was rightly issued. Applicants cannot found fault in the year 2012 in issuing the same. Applicants failed to apply in pursuance to the advertisement.

(g) Infact as per letter of DRM(E) Kota dated 15.05.2008 record of causal labours is maintained for a period of three years. As per railway board directions approval of General Manager is necessary for recruitment after 14.07.1981. Further no record of casual labours to which applicants belong is available as on today. Thus it is not possible to verify the truth of their documents. Even otherwise also as submitted herein above the applicants were not entitled to be regularised. They cannot be so also in view of the fact that their working was very short and they are over age now. Therefore, they have no claims against the answering respondents at this stage.

11. The respondents have categorically mentioned in their reply that these applicants were disengaged before 1991 and they worked for a brief

period and were not re-engaged thereafter. That the screening was done in 1990 in pursuance to the direction of the Railway Board letter dated 03.09.1990 wherein 613 casual labours were screened and their services were regularised by order dated 04.09.1997. They were having eligibility and the rest who were not absorbed did not have the eligibility. The advertisement dated 19.01.2008 was issued in terms of the Recruitment Rules. The applicants have also admitted in ground No. c that they worked in between 1973-1991.

12. We have heard Shri C.P. Sharma and Shri C.L. Saini, learned counsel for the applicants and Shri Aunpam Agarwal, learned counsel for the respondents at length and perused the pleadings and documents annexed therewith.

13. The policy decision dated 21.10.2003 issued by the Railway Board dealing with the open market recruitment in Group 'D' category is set out herein below:-

> " Sub: Open market recruitment in Group 'D' category.
>
> .....
>
> Pursuant to a demand raised in PREM meeting by the staff side. The

matter has since been revlieved by the Board and it has been decided that the Railways need not take prior approval of the Board while placing indents before the RRBs. However, before resorting to open market recruitment it should be ensured that the following conditions are fulfilled:-

1. The recruitment should have the personal approval of the General Manager.

2. Such recruitment should be resorted to only after exhausting the possibility of absorbing:-

(a) surplus staff available for redeployment

(b) Casual Labour on Roll

(c) Ex-Casual Labour on Live Registers and Supplementary Live Register.

3. It is further clarified that General Managers are competent to fill up the backlog of prescribed intake, which could not be filled up due to various reasons from August 2000 i.e. the date when the order of Rightsizing was issued excluding compassionate ground appointments. In this regards order of 1.0%/0.5% on intake stand modified in terms of Board's letter No.E(MPP)/2002/1/83dated 17.1.2003..."

14. The applicants' case is that the applicants are covered under clause 2(c) of the said Railway Board letter since they are Ex-casual labour on live Registers and Supplementary Live Registers. Admittedly neither the applicants are surplus staff nor casual labourers on roll.

15. On earlier occasion, many of these applicants filed OAs before this Tribunal and the said OAs were dismissed on merit. The order passed by this Tribunal was challenged before the Hon'ble High Court at Jaipur. The Hon'ble High Court passed the following order:-

> " The Writ Petitions have been filed as against the common order dated 22.12.2010 passed by the Central Administrative Tribunal deciding various Original Applications. The applications have been dismissed.
>
> It is submitted by the learned counsel appearing on behalf of the petitioners that the Tribunal has gone into various facts which were required to be looked into by the department at the first instance and proper inquiry ought to have been conducted by the Railways into facts of the case. It was also submitted that yet another Original Application No.494/11 has been decided vide order dated 03.11.2011 in which the Tribunal has directed to consider the case of the applicants as well as other similarly situated employees. The Tribunal has given liberty to the applicants to represent before the respondents if the appointments are not made so far pursuant to the advertisement dated 19.01.2008 in accordance with the circular dated 21.10.2003 and the respondents shall consider the same by passing a reasoned and speaking order. The Tribunal has given liberty to the applicants to represent the matter in case appointments have not been made so far pursuant to the advertisement dated

19.01.2008 in accordance with the circular dated 21.10.2003. The representation has been ordered to be decided by a reasoned and speaking order. There is no peremptory direction issued to the respondents to decide the matter in a particular way. They have to decide the same in accordance with the circular dated 21.10.2003.

In the circumstances, since the disputed facts are involved in the instant cases also, the respondents should examine the facts and question in accordance with circular dated 21.10.2003 and other instructions in this regard which prayer has not been seriously opposed by the counsel appearing on behalf of respondents. Hence, it is ordered with the consent of the learned counsel appearing on behalf of the petitioners and the petitioners who are present in person, that on representation being filed by the petitioners let their cases be considered in the light of circular dated 21.10.2003 and other instructions in this regard in accordance with law and be decided by a reasoned order after holding the factual inquiry, as may be necessary. Let the representation be decided as far as possible within a period of four months from the date of its filing."

16. Pursuant to this order of the Hon'ble High Court, the applicants submitted their representations. Their representations were rejected vide impugned orders dated 18.01.2012, 02.02.2012, 03.02.2012, 13.02.2012, 21.02.2012, 22.02.2012 & 26.07.2012. The applicants have

challenged the said orders in these OAs. The applicants have prayed for a direction on the authorities to regularise/absorb all the applicants on the post of Group 'D' category with all consequential benefits.

17. The Tribunal on earlier occasion held that majority of applicants have worked for a few days as could be seen from the reply. The respondents have categorically stated that their names had never been brought either in live or supplementary live register. Some of the applicants were dis-engaged prior to 1980, 1981 and as far back in the year 1972, 1974 and 1981. None of the applicant made any grievance regarding inclusion of their names in the live register or supplementary live register in terms of Railway Board instruction dated 28.8.1987 based upon the Railway Board decision dated 25.04.1986. Therefore, the applicants were not in a position to take any assistance from the policy decision dated 21.10.2003 since their names were not included in the live register or supplementary live register. The Tribunal further held that the said policy

decision stipulated that before resorting to open market recruitment, the recruitment and absorption of the categories mentioned therein should be resorted to with the approval of the General Manager.

18. This Tribunal also held that this issue is no longer *res-integra*. The instructions of the Railway Board dated 28.8.1987 and 25.4.1986 were considered by the Full Bench of the Tribunal at Jaipur in the case of ***Mahabir and Ors. Vs. Union of India and Ors., 2000 (3) AJT 1.*** Extract from the said judgment of Mahabir and Ors. was set out in the earlier judgment of the Tribunal which is as under:-

> "Thus, as can be seen from para-11 as reproduced above, the Full Bench has held that right of the casual labour to be included in the live register arises the moment casual labour is discharged. Before that right of being continued on the register indefinitely in terms of circular dated 28.8.1987 arises, the right to be placed on the register for the first instance has to be asserted and if such right is not asserted at the relevant time within the time prescribed by Section 21 of the Administrative Tribunals Act, such casual labour cannot wait for time immemorial and approach the Tribunal at leisure and at his whim and fancies, may be years later and assert

his right of being placed on the register. The ratio as laid down by the Full Bench in para 11 is fully attracted in the instant case. In the instant case, admittedly the name of applicants have not been included in the live register/supplementary live register. Here some of the casual labours are asserting their rights for being absorbed in Group-D posts after more than two decades and some of them were dis-engaged in the year 1972 and are approaching this Tribunal after a lapse of about 30 years. As such, the claim of the applicants cannot be entertained at this stage. As already stated above, the benefit of the circular is available to those ex-casual labours whose names find mention in live register and supplementary live register. Since name of applicants do not find mention in the live/supplementary live register, as such, the benefit of policy decision dated 21.10.2003 (Ann.A/5) cannot be extended to the applicants. Further, it is not case of the applicants that their names be brought in the live casual labour register/supplementary live register. A such, we are also not required to go into this question at this stage without their being any specific pleading to this effect.

11. The contention of the learned counsel for the applicant that once the department has issued causal labour card and the causal labours are discharged, it is the duty of the respondents to maintain live register and supplementary live register and to include their names in such register without asserting their right, cannot be accepted in view of the finding given by the Full Bench in para 11 (supra)

12. Further, the Full Bench of the Delhi High Court in the case of *Jagdish Prasad Vs. Union of India and Ors 2003 (1) SLJ 407* has held that non inclusion of name in terms of circular dated 28.08.1987 is not a continuous cause of action relying upon the decision of the Constitution Bench of the Apex Court in the case of S.S. Rathore Vs. State of M.P. AIR 1990 SC 10 and another decision of the Apex Court in *Ratan Chand Sammanta and Ors. Vs. UOI JT 1993 (2) SC 418*. In the case before the full bench the petitioner filed a representation on or about 24th September, 1987 for placing his name on the casual live register in terms of circular dated 28.08.1987. He did not carry the matter further and made further representation only on or about 20th May, 1998 for placing his name in the said register. It was held that cause of action would not be continuous one on the basis of representation dated 24th September, 1987. The further representation made on 20th May, 1998 after a lapse of 11 years was rejected on the ground of limitation. It may be stated that casual labour card was issued to the casual labour at the time of their engagement and casual cards are different than the entry to be made in the live casual labour register in pursuance of Railway Board order RBE 82 of 1986 dated 25.04.1986 as circulated vide letter dated 28.08.1987.

19. The Tribunal relying on Mahabir (*supra*) case at para 11 held that there was no force in the contention of the applicants that it was the duty of the respondents to maintain live register and

supplementary live register and to include their names in such register without asserting their right. The Tribunal further held that non inclusion of names in terms of the circular dated 28.08.1987 is not a continuous cause of action.

20. The Tribunal thereafter referred to the Constitution Bench judgment of the Hon'ble Apex Court in the case of ***State of Karnataka Vs. Uma Devi, 2006 SCC (L&S) 753.*** Para 13 of the earlier judgment is set out herein below:-

> "13. Yet for another reason, the applicants are not entitled to any relief in view of the Constitution bench decision of the Apex Court in the case of State of Karnataka Vs. Uma Devi, 2006 SCC (L&S) 753. In that case the Apex Court held that appointments made without following the due process or the rules relating to appointment did not confer any right on the appointees and courts cannot direct their absorption, regularisation or re-engagement nor make their service permanent, and the High Court in exercise of jurisdiction under Article 226 of the Constitution should not ordinarily issue directions for absorption, regularisation or permanent continuance unless the recruitment had been done in a regular manner, in terms of the constitutional scheme, and that the courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities, nor lend themselves to be instruments to

facilitate the bypassing of the Constitutional and statutory mandates. This Court further held that a temporary contractual, casual or a daily wage employee does not have a legal right to be made permanent unless he had been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. The Apex Court further made an exception to the above position in para 53 that where the employee has worked for 10 years or more in duly sanctioned post without the benefit of protection of any interim order of the court or tribunal and the appointment of such employee are not illegal even if irregular service of such employee can be regularised as one time measure. However, the Apex Court has categorically held that where appointments are made or continued against sanctioned post or where the person appointed does not possess the prescribed minimum qualification, the appointment will be considered to be illegal. Admittedly, the applicants do not fall within the exception as laid down by the Apex Court in Uma Devi's case (supra). Thus we see no infirmity in the action of the respondents, whereby the respondents have resorted to filling up of Group 'D' posts from direct recruitment from open market in terms of constitutional scheme and in accordance with the statutory provisions. Even on this account, the applicants cannot take any assistance from the policy decision which was issued prior to the decision of the Apex Court in the case of Uma Devi (supra) rendered on 10.04.2006.

21. The Tribunal on earlier occasion also held that any policy decision taken contrary to the

statutory provisions *dehors* the rules is not permissible in law as held by the Hon'ble Apex Court in the case of ***State of U.P. Vs. Deshraj reported in 2007 (1) SCC (L&S)163***. Para 13 is set out herein below:-

> "13. That apart, any policy decision taken contrary to the statutory provisions dehors the rules is not permissible in law as held Apex Court in the case of State of U.P. Vs. Deshraj, 2007 (1) SCC (L&S) 163. This view taken by the Apex Court was further followed by the Apex Court in number of decisions. At this stage, it will be useful to quote para 20 of the case in Nagar Mahapalika Kanpur Vs. Vibha Shukla and Ors. (2010) 1 SCC (L&S) 698, which thus reads:-
>
> > "20. Furthermore, it is trite that regularisation is noto a made of appointment. It has been so held by a Constitution Bench of this Court in State of Karnataka Vs. Umadevi. The principle enunciated by the Constitution Bench of this Court of this Court in Umadevi has inter alia been applied by this Court in Post Master General Vs. Tutu Das (Dutta) [(2007) 2 SCC (L&S) 179] stating as under:-
> >
> > > "12. What was considered to be permissible at a given point of time keeping in view the decisions of this Court which had then been operating in the field, does not longer hold good. Indisputably the situation has completely changed in view of a large number of decisions rendered by this Court in last 15

> years or so. It was felt that no appointment should be made contrary to the statutory provisions governing recruitment or the rules framed in that behalf under a statute or the proviso appended to Article 209 of the Constitution of India.
>
> 13. Equality clause contained in Article 14 and 16 of the Constitution of India must be given primacy. No policy decision can be taken in terms of Article 77 or Article 162 of the Constitution of India which would run contrary to the constitutional or statutory schemes."

22. Learned counsel for the respondents submits that the impugned communications are valid and proper. Pursuant to the order of the Hon'ble High Court each case was considered and the speaking orders have been passed. The applicants were not eligible at the time of last screening in 1997, as such, they were not considered for absorption. That apart the applicants cannot raise this stale issue after such a long time.

23. There is also merit in the submission of the learned counsel for the respondents that the applicants failed to produce sufficient proof that their names were brought in the live register or

the supplementary live register. The respondents have further stated that the records being very old, the same also could not be verified.

24. After going through the pleadings in the OAs, particularly in the ground para, we find that the applicants themselves have admitted that they worked as casual labourers in between 1973 to 1991.

25. We find that the respondents have raised a valid point that even otherwise the applicants were not entitled to be regularised in view of the fact that they worked for a very short period and they are now overage. As such, they cannot have any claim for the said posts since recruitment rules have already been framed laying down the eligibility criteria regarding qualification and age limit.

26. We also find merit in the submission of the learned counsel for the respondents that the applicants did not rise to the occasion at the relevant time. The cause of action, if any, arose if not after 1991 then atleast in 1997 when others were appointed in the vacant Group 'D' posts. The applicants have not produced any document to show

that from 2003 they had been taking up this issue of absorption of ex causal labour in permanent Group 'D' post till 2008 when a fresh advertisement was taken out by the Railway Board in consonance with the Recruitment Rules. Much water has flown through Ganges in the meantime. There has been a "sea change" in the law regarding absorption and regularisation. These Original Applications are definitely hit by the principles of delay and laches. We are inclined to refer some landmark judgments of the Hon'ble Supreme Court that delay in approaching Court is a good ground for dismissal of the Petition.

27. The Hon'ble Supreme Court in the case of *Chairman, U.P. Jal Nigam & Anr. Vs. Jaswant Singh & Anr.*(*supra*) held that the question regarding grant of relief to the persons who were not vigilant and did not wake up to challenge the action of the respondents and accepted the same but filed petitions after the judgments of the Court whether would be entitled to the same relief or not. Thereafter, the Hon'ble Supreme Court considered various judgments on delay and laches. The Hon'ble

Supreme Court held that when a person is not vigilant of his right and acquiesces with the situation, can his writ petition be heard after a couple of years on the ground that same relief should be granted to him as was granted to person similarly situated who was vigilant about his rights and challenged the alleged illegal action.

28. The Hon'ble Supreme Court in U.P. Jal Nigam's case summarized the Halsbury's Law of England. Para 911 is set out herein below :

> "In determining whether there has been such delay as to amount to laches, the chief points to be considered are :
>
> (i) acquiescence on the claimant's part; and
>
> (ii) any change of position that has occurred on the defendant's part.
>
> Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are not

material. Upon these conditions rests the doctrine of laches."

29. The Hon'ble Supreme Court in the case of *Bhoop Singh Vs. Union of India [AIR 1992 SC 1414]* held as follows :

> "It is expected of a Government servant who has a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. Under the Administrative Tribunals Act, 1985, there is a prescribed period of limitation for approaching this Tribunal. In the instant case, the applicants are claiming relief from 1988-1989 onwards by filing the present Original Applications in the year 2011. Such inordinate and unexplained delay/lapse is itself a ground to refuse relief to the applicants irrespective of the merits of their claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the minds of others that he is not interested in claiming that relief."

30. The Hon'ble Supreme Court in a recent judgment [***Union of India & others Vs. M. K. Sarkar reported in 2010 (2) SCC 59***] while considering the issue of arising of cause of action held that when a belated representation in regard to a stale or dead issue/dispute is considered and decided, in compliance with a direction by the Court/Tribunal

to do so, the date of such decision cannot be considered as furnishing a cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which the order is passed in compliance with a court's direction.

31. The Hon'ble Supreme Court in the latest judgment of ***State of Uttaranchal & Another Vs. Sri Shiv Charan Singh Bhandari & others [2014 (2) SLR 688 (SC)*** held that even if the Court or Tribunal directs for consideration of representation relating to a stale claim or dead grievance, it does not give rise to a fresh cause of action. The Hon'ble Supreme Court has dealt with various judgments passed by the Apex Court. The Hon'ble Supreme Court held in paragraphs 17 and 18 as under:-

> 17. In ***Bharat Sanchar Nigam Limited Vs. Ghanshyam Dass (2) & Others [2011 (4) SCC 374 : [2012 (4) SLR 711 SC],*** a three-Judge Bench of this Court reiterated the principle stated in ***Jagdish Lal Vs. State of Haryana [1977 (6) SCC 538]*** and proceeded

to observe that as the respondents therein preferred to sleep over their rights and approached the tribunal in 1997, they would not get the benefit of the order dated 7.7.1992.

18. In ***State of T. N. Vs. Seshachalam [2007 (10) SCC 137 : [2007 (2) SLR 860 (SC)]*** this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: -

> "....filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

32. The Hon'ble Supreme Court in the case of ***Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Others [2014 (1) AI SLJ 20]*** has laid down broad principles regarding condonation of delay culled out from various authorities. The Hon'ble Supreme Court in paragraphs 15 and 16 has held as under :-

> "15. From the aforesaid authorities the principles that can broadly be culled out are :

(i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay for the Courts are not supposed to legalise injustice but are obliged to remove injustice.

(ii) The terms "sufficient cause"should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.

(iii) Substantial justice being paramount and pivotal the technical considerations should not be give undue and uncalled for emphasis.

(iv) No presumption can be attached to deliberate causation of delay but gross negligence on the part of the counsel or litigant is to be taken note of.

(v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.

(vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.

(vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.

(viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the

former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.

(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

(x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the Courts should be vigilant not to expose the other side unnecessarily to face such a litigation.

(xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.

(xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.

(xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

16. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are :-

(a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the Courts are required to condone delay on the bedrock of the principle that adjudication is a *lis* on merits is seminal to justice dispensation system.

(b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

(c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

(d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a non-challant manner requires to be curbed, of course, within legal parameters."

33. The Hon'ble High Court with consent of the parties held that 'let the cases of the Writ Petitions be considered in the light of circular dated 21.10.2003 on the individual representations to be submitted by the Petitioners. We find that the respondents passed orders on the representations of the Petitioners and the said orders have been impugned in these Original

Applications since those orders have given rise to fresh cause of action. However, in view of the declaration of law regarding delay in the judgments of the Hon'ble Supreme Court quoted hereinabove, the claim of the applicants remains stale. The dates of the impugned communication in these Original Applications do not furnish a cause of action for reviving time bound dispute.

34. It also appears that the respondents while deciding the representations have held that the applicants are not covered by Railway Board's circular dated 21.10.2003.

35. We have gone through the Railway Board letter dated 21.10.2003. In the first paragraph, it is clearly mentioned that the Railways are required to seek Board's prior approval before resorting to open market recruitment in Group 'D' categories. Therefore, the Railway Board before issuing the impugned advertisement dated 2008 got approval from the same Railway Board for direct recruitment in the vacant posts of Group 'D' in Railways in accordance with the prevailing Recruitment Rules.

36. The applicants in some places claimed

regularisation in some places absorption. There is a basic difference between regularisation and absorption. The question of requlariśation arises only when a person is on role but as a temporary or casual work. Therefore, the applicants not being in role, their claim on the basis of being ex causal labour in these Original Applications cannot be termed as 'regularisation'.

37. Learned counsel for the respondents argued that impugned advertisement for fresh recruitment was made in strict compliance of the Recruitment Rules. All the applicants have become overage in terms of the Recruitment Rules. He further argues that it is not within the power of the Tribunal to direct age relaxation inasmuch while directing age relaxation in a fit case, the Hon'ble Supreme Court in Uma Devi's case exercised its power under Article 142 of the Constitution. The Hon'ble Supreme Court made an exception regarding regularisation in respect of those who had been continuously working for more than 10 years against sanctioned vacancies and were still working when the said judgment was pronounced. The applicants in

these cases did work for much much less than ten years.

38. The details regarding period of work as causal labour given by the applicants themselves are as follows:-

OA No.480/2012 : There are 17 applicants. The applicants have given a chart mentioning their period of service.

Sr No	Name	Service period
1	Ramesh s/o. Shri Madho	6.7.82 to 23.2.1984
2	Girraj s/o Badri	6.7.82 to 21.8.82
3	Gajendra Singh s/o Kalyan	21.1180 to 20.4.82
4	Samshudeen s/o Nanu Khan	7.5.79 to 9.5.87
5	Iqbal Mohd s/o Ishak Mohd	1.4.85 to 17.5.86
6	Devilal s/o Narayan	21.8.82 to 1.10.84
7	Prabhu s/o Manna	24.1.82 to 30.9.83
8	Kedar s/o Bhanwaria	1.12.80 to 20.4.81
9	Bhagwan Swaroop s/o Gopal	26.3.84 to 28.4.84
10	Satish Kr. S/o Anokhelal	26.3.84 to 28.4.84
11	Om Prakash s/o Gulab Chand	26.3.84 to 28.4.84
12	Mohd. Ayub s/o Mohd. Akbar	1.6.86 to 30.6.86
13	Moindeen s/o Mumtaz	14.5.86 to 25.6.91
14	Rajendra Mohan s/o Neeraj	20.7.88 to 20.10.88
15	Rafiq s/o Habib Khan	30.4.82 to 6.7.82
16	Rajendra Singh s/o Bhagwan Singh	5.1.85 to 8.4.85
17	Ram Singh s/o Bhonri Lal	21.8.82 to 6.9.82

OA No.481/2012: There are 20 applicants. The applicants have given a chart mentioning their period of service.

Sr. No	Name	Service period
1	Giriaj Prasad Sharma s/o Shri Bajrang Lal	3.5.83 to 30.6.91
2	Sher Singh S/o Gariba	6.5.86 to 24.3.88
3	Mandal s/o Sannu	7.5.78 to 2.8.78
4	Hargovind s/o Pooran Singh	21.6.82 to 24.6.85
5	Sonji Jogi s/o Badri	15.7.80 to 20.08.83
6	Kailash s/o Ramphool	21.8.82 to 20.12.82
7	Lal Chand Meena s/o Narain	3.2.81 to 23.11.82
8	Ghanshyam Lal Mahawar s/o Korilal	3.7.95 to June, 1986
9	Bhambal s/o Kunja	21.8.82 to 20.3.84
10	Kana s/o Gangadhar	10.10.81 to 10.1.82
11	Moti s/o Abudia	10.10.81 to 21.3.83
12	Ghanshyam s/o Bansi	1.4.87 to 30.8.88
13	Harji s/o Sukha	28.6.84 to 4.11.84
14	Prahlad s/o Dhanna	7.12.81 to 7.9.1983
15	Ramcharan s/o Indraj	21.8.82 to 6.12.82
16	Jagdish s/o Sukha	24.4.86 to 30.06.91
17	Ramjilal s/o Indraj	11/77 to 20.04.83
18	Moharpal s/o Mansukh	7.5.72 to 3.12.72
19	Lallu Lal s/o Mool Chand	1.6.81 to 20.8.81
20	Chhotu s/o Gyarsa	24.8.81 to 25.12.81

OA No.528/2012: The applicant has stated that the applicant had worked under the control of the respondents from 26.06.1988 to 30.06.1991. Total days being 202 days. All the days of working of the applicant are mentioned in the yellow card. Yellow card has been annexed as Annexure A-12 to OA No.528/2012.

OA NO.622/2012: There are two applicants. The applicants in the OA have not clearly mentioned the period of their working in the Railway as casual labourers. They have annexed the service cards as Annexure A-3 wherefrom it appears that they worked sometimes in 1985.

OA No.840/2012: There are twelve applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.841/2012: There are Eleven applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, mistakenly written as 26.06.1998. All

the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.842/2012: There are four applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.19/2013: There are 25 applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.20/2013: There are 52 applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, although it is mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.21/2013: There are 63 applicants. The applicants have stated in the OA that they worked

under the control of the respondents. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.258/2013: There are fourty four applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991, mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

OA No.49/2014 : There are 19 applicants. The applicants have contended that they worked under the control of the respondents from 26.06.1988 to 30.06.1991 mistakenly written as 26.06.1998. All the days of working of the applicants are mentioned in the yellow card being Annexure A-11.

39. Learned counsel for the applicants heavily relied on Railway Board letter dated 21.10.2003. Learned counsel relying on the said letter submits that the Hon'ble Supreme Court in the case of the *Railway Board and Others Vs. P.R. Subramaniyam and Others reported in 1978 (1) SCC 158* held that Railway Board letters are statutory rules. The

learned counsel for the applicants submits that Railway is bound to follow the Railway Board letter dated 21.10.2003 since the same is to be considered as Rule under Article 309 of the Constitution. The relevant part of the said judgment is set out herein below:-

> "3. In the Indian Railway Establishment Code Volume I are the Rules framed by the President of India under Article 309 of the Constitution. Contained in the said Code is the well known Rule 157 which authorises the Railway Board, as permissible under Article 309, to have "full powers to make rules of general application to non-gazetted railway servants under their control". The Railway Board have been framing rules in exercise of this power from time to time. No special procedure or method is prescribed for the making of such rules by the Railway Board. But they have been treated as rules having the force of rules framed under Article 309 pursuant to the delegated power to the Railway Board if they are of general application to non-gazetted railway servants or to a class of them."

40. We are now inclined to deal with the issue regarding claim of the applicants for absorption on merit (a) whether the applicants claim of absorption or regularisation in the Group D posts in Railway by virtue of Railway Board order dated

21.10.2003 is sustainable (b) whether the action of the Railway department in issuing the Advertisement for fresh recruitment in Group 'D' posts is illegal, arbitrary (c) whether the impugned communications/orders rejecting the representations of the applicants are valid and proper.

41. A Constitution Bench judgment of the Hon'ble Supreme Court in the case of ***State of Karnataka vs. Uma Devi (3)*** reported in ***2006 SCC (L&S) 753*** has held that public employment in a sovereign socialist secular democratic republic has to be as enumerated by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hall mark, and the constitution has provided also for affirmative action to ensure that unequals are not treated as equals. Thus, any public employment has to be in terms of the constitutional scheme.

42. The sum and substance of the judgment appears to be that the Court cannot in such situations "individualize Justice" by bypassing

Articles 14 and 16 of the Constitution and the constitutional scheme relating to public employment. The ratio decidendi is to be found from the following enunciation by the Court:-

> "It is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee."

43. It is held in the said case that Article 309 has also mandated that the entire process of recruitment in public service is to be conducted by detailed procedure which will specify necessary qualifications, age limit, mode of appointment etc. The Constitution does not envisage any employment outside this constitutional scheme and without following requirements laid down therein. In this regard, relevant part of paras 11 & 38 is set out

herein below:-

> "11. In addition to the equality clause represented by Article 14 of the Constitution, Article 16 has specifically provided for equality of opportunity in matters of public employment. Buttressing these fundamental rights, Article 309 provides that subject to the provisions of the Constitution, Acts of the legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of a State.

> 38. The appointment to any post under the State can only be made after a proper advertisement has been made inviting applications from eligible candidates and holding of selection by a body of experts or a specially constituted committee whose members are fair and impartial through a written examination or interview or some other rational criteria for judging the inter se merit of candidates who have applied in response to the advertisement made. A regular appointment to a post under the State or Union cannot be made without issuing advertisement in the prescribed manner which may in some cases include inviting applications from the employment exchange where eligible candidates get their names registered. Any regular appointment made on a post under the State or Union without issuing advertisement inviting applications from eligible candidates and without holding a proper selection where all eligible candidates get a fair chance to compete would violate the guarantee enshrined under Article 16 of the Constitution (B.S. Minhas Vs. Indian Statistical Institute, AIR 1984 SC 363."

44. The Hon'ble Supreme Court in Uma Devi's case at para 42 referred to the case of ***D.C. Wadhwa (Dr) Vs. State of Bihar reported in 1987 1 SCC 378***. The extracts of the said judgment of Supreme Court as set out in paragraph 42 is set out herein below:-

> "The rule of law constitutes the core of our Constitution and it is the essence of the rule of law that the exercise of the power by the State whether it be the legislature or the executive or any other authority should be within the constitutional limitations and if any practice is adopted by the executive which is in flagrant and systematic violation of its constitutional limitations, Petitioner 1 as a member of the public would have sufficient interest to challenge such practice by filing a writ petition and it would be the constitutional duty of this Court to entertain the writ petition and adjudicate upon the validity of such practice.".

45. Relevant part of para 43 has already been set out herein above which says in public employment the authority are to follow Recruitment Rules. Any appointment made which is not in terms of the recruitment rules, no right would be conferred to the appointee. It further transpires that executive authority has to act within the

of the Constitution and since the rule of law is the core of the Constitution.

47. The Hon'ble Apex Court in Uma Devi's case (3) clearly held that **"there should be no further bypassing of the constitutional requirement and regularising or making permanent those not duly appointed as per the constitutional scheme"**. The Hon'ble Apex Court further held that even the State cannot make rules or issue any executive instructions by way of regularisation of service. The same would be in violation of the Rules made under Article 309 of the Constitution and opposed to the constitutional scheme of equality clauses contained in Articles 14 & 16. In this regard, paragraphs No.14 & 15 of the judgment ***R.S. Garg Vs. State of U.P. reported in AIR 2006 SC 2912*** are set out herein below:-

> "14. In Suraj Parkash Gupta & Ors. Vs. State of J&K & Ors. [(2007) 7 SCC 561], this Court opined:
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> "The decision of this Court have recently been requiring strict conformity with the Recruitment Rules for both direct recruits and promotees. The view is that there can be no relaxation of the basic or fundamental rules of recruitment.

constitutional limitation. Therefore, in our considered view, the Railway Board letter of 2003 is totally opposed to the constitutional scheme for public employment. In view of clear law laid down by the Hon'ble Supreme Court in Uma Devi's case that unless the appointment is in terms of the relevant Recruitment Rules and after a proper competition among qualified persons, the same could not confer any right on the appointee for regular appointment.

46. The applicants in the present OAs do not have any right to claim appointment in Group 'D' posts which has been advertised in accordance with the valid Recruitment Rules. The applicants cannot also throw any challenge to the advertisement since their claim, if any, accrued from the railway board letter which is contrary to the law laid down by the Hon'ble Supreme Court in Uma Devi's case as well as in all subsequent cases that any executive instructions which is in fragrant and systematic violation of the constitutional scheme, the same is not to be adhered to since adherence to the rule of equality in public employment is the basic feature

> 15. Even the State cannot make rules or issue any executive instructions by way of regularization of service. It would be in violation of the rules made under Article 309 of the Constitution of India and opposed to the constitutional scheme of equality clauses contained in Articles 14 and 16.

48. The Hon'ble Supreme Court also declared that the High Courts may not pass any order under Article 226 of the Constitution which will not be in consonance with the constitutional scheme of public employment. The Hon'ble Supreme Court in the case of Uma Devi (3) (*supra*) held that orders for absorption, regularisation or permanent continuance of such employees are passed apparently in exercise of the wide powers under Article 226 of the Constitution. The wide powers under Article 226 are not intended to be used for a purpose certain to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter or public employment as recognised by our Constitution. It is time that the courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those

who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very constitutional scheme of public employment.

49. The Hon'ble Apex Court held that it has to be emphasised that this is not the role envisaged for the High Courts in the scheme of things and their wide powers under Article 226 are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten. Paras 4 &5 of the said judgment are set out herein below:-

> 4. But, sometimes this process is not adhered to and the Constitutional scheme of public employment is by-passed. The Union, the States, their departments and instrumentalities have resorted to irregular appointments, especially in the lower rungs of the service, without reference to the duty to ensure a proper appointment procedure through the Public Service Commission or otherwise as per the rules adopted and to permit these irregular appointees or those appointed on contract or on daily wages, to

continue year after year, thus, keeping out those who are qualified to apply for the post concerned and depriving them of an opportunity to compete for the post. It has also led to persons who get employed, without the following of a regular procedure or even through the backdoor or on daily wages, approaching Courts, seeking directions to make them permanent in their posts and to prevent regular recruitment to the concerned posts. Courts have not always kept the legal aspects in mind and have occasionally even stayed the regular process of employment being set in motion and in some cases, even directed that these illegal, irregular or improper entrants be absorbed into service. A class of employment which can only be called 'litigious employment', has risen like a phoenix seriously impairing the constitutional scheme. Such orders are passed apparently in exercise of the wide powers under Article 226 of the Constitution of India. Whether the wide powers under Article 226 of the Constitution is intended to be used for a purpose certain to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter of public employment as recognized by our Constitution, has to be seriously pondered over. It is time, that Courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of

orders for continuance, tends to defeat the very Constitutional scheme of public employment. It has to be emphasized that this is not the role envisaged for High Courts in the scheme of things and their wide powers under Article 226 of the Constitution of India are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten.

5. This Court has also on occasions issued directions which could not be said to be consistent with the Constitutional scheme of public employment. Such directions are issued presumably on the basis of equitable considerations or individualization of justice. The question arises, equity to whom? Equity for the handful of people who have approached the Court with a claim, or equity for the teeming millions of this country seeking employment and seeking a fair opportunity for competing for employment? When one side of the coin is considered, the other side of the coin, has also to be considered and the way open to any court of law or justice, is to adhere to the law as laid down by the Constitution and not to make directions, which at times, even if do not run counter to the Constitutional scheme, certainly tend to water down the Constitutional requirements. It is this conflict that is reflected in these

cases referred to the Constitution Bench."

50. Therefore, in our considered view, the Railway Board letter of absorption of ex casual labourers whose names are on live registers and supplementary live registers, contrary to the substantive Recruitment Rules and opposed to the constitutional scheme of public employment can no more hold the field. It is well settled law that any scheme or any order which is opposed to the constitutional scheme of equality clauses contained in Articles 14 and 16 and in violation of the Recruitment Rules duly framed under Article 309 of the Constitution should be held to be illegal, *ultra vires* and bad in law.

51. The Hon'ble Supreme Court in the case of *Union of India Vs. Kartick Chandra Mondal reported in AIR 2010 SC 3455* has applied Uma Devi's (3) case in respect of disengaged causal laboures in view of ban imposed by the Government on recruitment or appointment in Group D post on the basis that the Office Memorandum was applicable in respect of those who were in service on the date of issuance

of the OM. The Hon'ble Supreme Court in the case of *Official Liquidator Vs. Dayanand reported in 2008 (10) SCC 1* highlighted the changing approach in Uma Devi's case. There is a marked shift in such trend. Uma Devi (3) also clarified that earlier decisions which ran counter to the principles settled by it will stand denuded of their status as precedents and such posts cannot be regularised merely by reason of long continuance. Para 54 of Uma Devi (supra) case is set out herein below:-

> "54. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents."

52. In a landmark judgment the Hon'ble Supreme Court has held that where regularisation was sought to be made on the basis of policy decision contained in a circular letter and even if it was adopted in terms of Article 162 of the Constitution, the same cannot be done. Para 10 of the ***Punjab Water Supply and Sewerage Board Vs. Ranjodh Singh reported in AIR 2007 SC 1082*** is set out herein below:-

> "10. A statutory board is an autonomous body. Nothing has been brought to our notice to show that under the statute any direction issued by the State shall be binding on it. The State may have some control with regard to recruitment of employees of local authorities, but such control must be exercised by the State strictly in terms of the provisions of the Act. The statutory bodies are bound to apply the rules of recruitment laid down under statutory rules. They being 'States' within the meaning of Article 12 of the Constitution of India, are bound to implement the constitutional scheme of equality. Neither the statutory bodies can refuse to fulfil such constitutional duty, nor the State can issue any direction contrary to or inconsistent with the constitutional principles adumbrated under Articles 14 and 16 of the Constitution of India. The purported directions of the State were otherwise bad in law in so far as thereby the statutory rules were sought to be superseded. A circular letter furthermore is not a statutory instrument. It was not even issued by the State in exercise of the power under Article 162 of the Constitution of India. Even a scheme issued under Article 162 of the Constitution of India, would not prevail over statutory rules."

53. We have carefully gone through the judgment of P.R. Subramaniyam (*supra*) heavily relied on by the learned counsel for the applicant. We find that Indian Railway Establishment Code Volume I are the Rules framed by the President of India under Article 309 of the Constitution. Contained in the said Code is the well known Rule 157 which authorises the Railway Board, as permissible under Article 309, to have "full powers to make rules of general application to non-gazetted railway

servants under their control". These rules have been treated as rules having the force of rules framed under Article 309 pursuant to the delegated power to the Railway Board if they are of general application to non-gazetted railway servants or to a class of them." But, the circular of 2003 issued by the Railway running contrary to the constitutional provisions of Article 14 and 16, even if considered to be a subordinate legislation cannot prevail over the statutory rule or the constitutional provision.

54. In view of clear law laid down by the Hon'ble Supreme Court in the above case that a scheme framed by the State in exercise of executive power will not prevail over statutory rules which are consistent with the Constitutional provision of Article 14 and 16. We find the claim of the applicants for absorption in the Group 'D' posts on the basis of Railway Board letter dated 21.10.2003 has no merit. In view of the pronouncement of the Hon'ble Supreme Court in Uma Devi's case, this is no more *res-integra* that any executive instruction or any policy decision which is directly opposed to

the basic feature of the Constitution is bad in law and void.

55. Therefore, the Railway Board is to review their earlier policy decision of absorption /regularisation of casual labourers, ex causal labourers and withdraw the same since the said circular violates constitutional provisions and run thoroughly against the law laid down by the Constitution Bench judgment of the Hon'ble Apex Court in Uma Devi(3) case

56. In our considered view, the applicants have failed to make out any case. These Original Applications do not require any interference of this Tribunal. Accordingly, the impugned letters are held to be valid and proper.

57. These Original Applications are, accordingly, dismissed. All the connected MAs also stand closed. However there will be no order as to costs.

(Smt. Chameli Majumdar)
Member (J)

(Anil Kumar)
Member (A)

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