

50/600

9

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-92/97 ordersheet pg-1

INDEX

disposed date-11/4/97

O.A/T.A No. 79/96.....

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SECTION OFFICER (Judl.)

DA No. 79/96
MP. No. (DA)
RA No. (DA)
CP No. (DA)

Sri Ananda Ram Chary & Os. APPLICANT(S)
VERSUS

Union of India & Os. RESPONDENT(S)

Mr. B. Mukherjee S. Sarma... Advocate for the applicant.

Mr. M. K. Chandray... Advocate for the Respondents.
By Adv.

Office Notes -----
Court's Orders -----

This application is in form and within time. F. of Rs. 50/- deposited vide IPO/PS No. 093458/89 Dated 14.5.96

21/5
24/5

6.6.96

Notice issued to the Respondent vide No. 1212 Dd. 6.6.96.

Bar. 24-6-96
Notice duly served on Respondent No. 1, 3 & 2.

Bar

Show Cause has not been filed.

28.5.96

Learned counsel Mr. S. Sarma for the applicants. None for the respondents.

32 applicants have jointly submitted this application. Heard Mr. Sarma and the applicants are permitted to join together in a single petition under Rule 4(5)(a) of the C.A.T.(Procedure) Rules 190 as they fulfil the condition there.

Issue notice on the respondents to show cause as to why this application should not be admitted and reliefs sought should not be granted. Returnable on 30.7.96.

List on 30.7.96 for show cause and consideration of admission.

Pendency of this O.A. shall not be a bar for the respondents consider the case of the applicant for appointment in Group 'D' categories.


Member

30-7-96

Learned counsel Mr. S. Sarma for the applicant. None for the respondents. Show cause has not been submitted.

List for show cause and consideration of admission on 22-8-96.

pg

Member

2-8-96

22.8.96

Mr S. Sarma for the applicant. None for the respondents. Show cause has not been submitted.

Heard Mr S. Sarma for admission. Application is admitted. Issue notice on the respondents by registered post. Written statement within six weeks.

List for written statement and further orders on 3.10.96.

Pendency of this application shall not be a bar for the respondents to consider regularisation of services of the applicant.

pg

Member

3.10.96

Mr S. Sarma for the applicant. Mr M.K Choudhury for the respondents seeks time for filing written statement.

List for written statement and further orders on 13.11.96.

pg

Member

13.11.96

None present. Written statement has not been submitted.

List for written statement and further orders on 6.12.96.

pg

Member

Memo of appearance submitted by Mr. AK Chaudhry, addl- case.

Statement has not been filed.

Statement has not been filed.

Notice duly served on P. No. 1-3.

Statement has not been filed.

3

3

O.A. No. 79 of 1996

6.12.96

Mr. S.Sarma for the applicants.

None for the respondents.

Written statement has not been submitted.

List for written statement and further orders on 12.1.97.

Mr. Sarma, submits that in view of the order in letter No.95/E(SCT)II/5/20 dated 2.5.96 issued by the Railway Board an order may be issued to the respondents to re-engage the applicants. It is directed that pendency of this application shall not be a bar to the applicants to approach the competent authorities of the respondents for their re-engagement and the respondents may also consider the case notwithstanding the pendency of the O.A. No. 79 of 1996.

Member

trd

on 6/12

10-2-97

1) Notices duly served on R-1-3.

15.1.97

Learned counsel Mr. S. Sarma for the applicants. None for the respondents. Written statement has not been submitted.

2) NO written statement has been filed.

List for written statement and further orders on 11.2.97.

on 10/2

Member

nkm
on 15/1

11.2.97

A mention has been made on behalf of Mr M.K.Choudhury by Mr B.K.Sharma for further extension of time to file written statement. Several adjournments have been granted. We do not find any ground to grant further extension.

Notice duly served on R-1-3.

NO. W/statement has been filed.

Let this case be listed for hearing on 3.4.1997.

Member

Vice-Chairman

(4)

O.A. 79/96.

23-4-97

3-4-97

Learned counsel Mr. S. Sarma for the applicant is present.

List for hearing on 8-5-97.

w/s filed on behalf of the Respondents

Member

Vice-Chairman

lm

8/19

8.5.97

Left over. List on 24.6.97 for hearing.

Its has been biled

Member

Vice-Chairman

pg

9/15

24.6.97

Mr. S. Sarma, learned counsel is appearing on behalf of the applicant informs the Tribunal that certain development regarding settlement of the case out of the court is taking place.

Its has been biled

Let this case be listed on 12.8.1996 for hearing.

Member

Vice-Chairman

trd

2/12

12-8-97

Division Bench is not sitting. Let this case be listed for hearing on 3-11-97.

Its has been biled

Vice-Chairman

lm

13/8

3-11-97

Advised to 31.12.97

Its has been biled

2/12

By order

5

5

31.12.97

Let this case be listed for hearing on 13.4.98.

14

[Signature]
Vice-Chairman

20.4.98

pg
MS
6/1/98

There was a ^{vacation} holiday on 13.4.98. Therefore, placed before on 14.7.98.

14.7.98

15

On the prayer of Mr B. Sharma, learned counsel for the applicant this case is adjourned till 24.7.98.

[Signature]
Member

[Signature]
Vice-Chairman

W/S has been filed.
W/S has been filed.
W/S has been filed.

nkm
MS
15/7

24.7.98

16

Due to personal reason Mr S. Sarm is not in a position to attend the Tribunal. Accordingly Mr U.K.Nair has made a mention for adjournment.

List on 31.7.98 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

W/S has been filed.
W/S has been filed.

pg
MS
29/7

31-7-98

17

Division Bench is not available to-day. Case is adjourned to 20-8-98.

[Signature]
Member

W/S has been filed on respondents.

lm
MS
31/7
20.8.98

18

On the prayer of Mr B.K.Sharma, learned counsel for the ~~applicant~~ ^{respondents} the case is adjourned to 27.8.98.

[Signature]
Member

[Signature]
Vice-Chairman

W/S has been filed respects.

6

⑥ O.A. 79/96

27.8.98 Leftover. Adj. to 26.10.98
By order.

The case is ready
for hearing as
regard Service.

3/10

26.10.98 On the prayer of the counsel for
the applicants the case is adjourned till
28.10.98.

Fix on 28.10.98.


Member


Vice-Chairman

trd

28.10.98 On the prayer of Mr B.K
Sharma, learned counsel for th
applicant the case is adjourned til
9.11.98.


Member


Vice-Chairman

nkm

9.11.98 Division Bench is not available.
Case is adjourned to 4.12.98.

pg

By Order


3-12-98
Written statement
has been filed.

3/12/98

4.12.98 Present: Hon'ble Mr Justice D.N. Baruah
Vice-Chairman
Hon'ble Mr G.L. Sanglyine,
Administrative Member


On the prayer of Mr J.L. Sarkar,
learned Railway counsel this case is
adjourned till 7.12.98. The records
shall be produced on that day.



Member


Vice-Chairman

nkm

7.12.98 On the prayer of Mr J.L.Sarkar,
learned Railway Counsel the case is
adjourned till 14.12.98.


Member


Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

14-12-98

On the prayer of Mr. S. Sarma, learned counsel appearing on behalf of the applicant case is adjourned to 8-1-99 for hearing.

Member

Vice-Chairman

lm

28/12/98

8.1.99

Heard in part. Adj'd to 11-1-99

11.1.99

Heard Mr. S. Sarma, learned counsel for the applicant. None appears on behalf of the respondents. Judgement delivered in the open court, kept in separate sheets. The application is disposed of. No order as to costs.

Member

Vice-Chairman

trd

7-1-99

His statement has been filed.

11/99

24.5.99

Copies of the Judgment have been sent to the Secy for issuing the same to the parties. vide dispatch no. - dated

Notes of the Registry

Date

Order of the Tribunal

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No.790 of 1996

Date of decision 11.1.1999

Shri Ananda Ramchiary & 31 Ors.

PETITIONER(S)

Mr. B.Mehta, Mr. S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. M.K.Choudhury.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.

A

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 79 of 1996.

Date of decision : This the 11th day of January, 1999.

Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Shri Ananda Ramchiary & 31 Others.

All are ex-casual labourers
in the Alipurduar Division,
N.F. Railway.

Applicants

By Advocate Mr. S. Sarma.

-versus-

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

None appears on behalf of the respondents.

O R D E R

BARUAH J (V.C.).

Thirty two applicants have filed this present application. Permission as per the provisions of Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 was granted by an order dated 28.5.96.

2. In this application the applicants have prayed for directions to the General Manager, N.F. Railway Maligaon, to issue necessary approval towards engagement

Contd...

B

of the applicants made on or after 1.1.1981 and also to confer the benefits to the applicants as casual labourers under the rules and thereafter appoint the applicants against the available backlog vacancies meant for Scheduled Tribe candidates and another reliefs they are entitled to.

3. All the applicants belong to a community recognised as Scheduled Tribe and therefore they are entitled to special privileges under the Constitution. The applicant on being selected, were engaged as casual worker and had been working as such. They worked the requisite number of working days to get temporary status as well as other benefits under the Scheme. However, service of the applicants had been terminated prior to 1981. Thereafter, in the year 1995, the Divisional Railway Manager, Alipurduar Junction, N.F. Railway, issued a circular dated 13.02.1995 regarding Special Recruitment Drive of SC/ST candidates. As per the said circular in order to clear the backlog of SC/ST Group 'D' recruitment categories in terms of GM(P)/MLG's letter dated 1.7.1993, special recruitment drive was under the process and due to non-availability of Scheduled Tribe candidates amongst the existing casual labourers in combined seniority list, a list of SC/ST ex-casual labour of open line

R

Contd...

and construction organisation was submitted by the Divisional Secretary AISCTERA/APDJ. In the said list names of 56 numbers of construction ex-casual labour was submitted. Pursuant to this list, the name of the applicants were included. However, name of the applicant No. 18 was not in the said list.

4. Heard Mr. S.Sarma, learned counsel appearing on behalf of the applicants. ~~He has submitted~~ of the respondents.

5. Mr. Sarma submits that the authority after having decided to engage casual workers and application having been forwarded except the applicant No.18 they ought to have been engaged but nothing was done. Mr. Sarma further submits that non-action of the authorities to engage the applicants giving all the benefits they are entitled to under the scheme has caused great hardships to the applicants besides they are being prejudiced. Therefore he prays a direction to the respondents to act in terms of the decision taken by the authorities concerned as mentioned above.

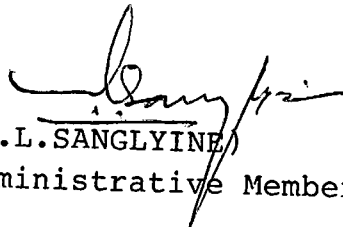
6. On hearing the counsel for the applicant and on perusal of the application we feel it will be expedient if the applicants file representation giving details about their grievances within a period of one month from the date of receipt of this order. If such representation is filed within this period,

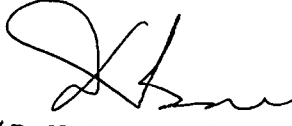
Contd...

the authority shall consider the same and take a decision regarding engagement of the applicants. As the respondents have already taken a decision to engage the applicants there may not be any difficulty in taking such decision.

7. We, therefore dispose of this application with direction to the respondents to consider the case of the applicants if any representation is filed within one month from the date of receipt of this order and respondents shall take decision regarding the engagement of the applicants within two months thereafter.

8. Considering the facts and circumstances of the case, we however, make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

Filed by
Siddhartha C.

O.A. No 79 of 1996.

Sri. Ananda Ramchary & ors
.....Applicants

- vs -

Union of India & ors
.....Respondents.

L I S T O F D A T E S.

13.2.95
Annexure-1.
Page-15.

:- The Respondent No.2 , the Divisional Railway Manager (P) Alipur-Duar Junction addressed to the General Manager Construction ,Maligaon on the subject of special recruitment drive of SC/ST candidates and asked for particulars of ~~xxx~~ 56 construction ex-casual labourers belongs to SC/ST category. According to the letter special recruitment drive was in process and due to non-availability of SC/ST candidates amongst the existing casual labourer a combine seniority list was prepared.

13.3.95
Annexure-2.
Page-16.

:- General Manager Construction issued a letter to verify the relevant records in regards to the abovementioned 56 ex-casual labourers .

10.4.95
Annexure-3
Page- 17.

:- The same authority again made a request to furnish full service period and reason of discharging etc.

24.4.95
Annexure-4.
Page- 18.

:- The same authority again made a request to the ex- confirm the names of the 56/casual labourers

contd.....p/2.

4.8.95
Annexure - 5
Page- 19.

:- The General Manager Construction issued a letter to the Divisional Railway Manager(P) to furnish the service particulars of the ex-casual labourers . In the said letter it was mentioned that the General Manager's approval are under scrutiny.

In the said letter it is stated that working period of Sri Mani Ram Boro is under verification and will be sent separatly.

8.8.95
Annexure-6.
Page- 20.

:- The Divisional Railway Manager (P) Alipurduar addressed a letter to the General Manager(C) expressing his helplessness in seraching the ex-casual Labourers without the approval from General Manager Construction.

* * *
* **
*

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.95/E(SCT)II/5/20.

New Delhi, dated: 14/96.

The General Manager (P),
N.F. Railway,
Guwahati.

ATTENTION: Shri C. Saikia, Dy.CPO/MG.

Sub: Special recruitment drive for wiping out
backlog of SC/ST in Group 'D' categories
in N.F. Railway.

Ref: Your Railway's Fax letter No.E/231/Resv./
MR/Pt.IV dated 31.1.96.

The matter has been examined. As per Board's
instructions dated 18.12.80, casual labour (fresh face)
could be engaged with prior personal approval of General
Manager only. It is seen from your letter that 56 ex-
casual labours were engaged after 1.1.81 without the prior
approval of Competent Authority i.e. General Manager.
It shows the non-observance of extant rules in engagement
of casual labours by Railway Admn. Therefore, Board
desire that the responsibility should be fixed on the
officers/staff who engage them without the approval of the
competent authority and necessary action taken against
them.

2. Since, it is not the mistake of the ex-casual
labours, their names should be kept in the live casual
register and may be considered for re-engagement.

3. Please send your reply early.

(C. Xalxo)
Jt. Director, Estt. (R)I
Railway Board.

By Lead pm
S. S. S. S. S.
17.5.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 79 of 1996

Shri Ananda Ramchiary & Others ... Applicants

- Versus -

Union of India and others ... Respondents

I N D E X

<u>Sl. No.</u>	<u>Particulars of the documents</u>	<u>Page Nos.</u>
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For use in Tribunal's office :

Date of filing : 24.5.96

Registration No. : 79/96

REGISTRAR

Central Administrative Tribunal
গুৱাহাটী বেঞ্চ
137
24 MAY 1996
Guwahati Bench
২৪ মে ১৯৯৬

read in
M. K. Choudhury
Advocate

BETWEEN

1. Shri Ananda Ramchiary
2. Shri Hari Kanta Boro
3. Shri Khagendra Nath Boro,
4. Shri Rati Kanta Boro,
5. Shri Mani Ram Boro,
6. Shri Rukmal Basumotary,
7. Shri Bhabit Boro
8. Shri Mania Ram Swargiary
9. Shri Rajjit Brahma
10. Shri Arun Boro
11. Shri Haricharan Boro
12. Shri Arabinda Boro
13. Shri Dharmeswar Rahang
14. Shri Ramesh Ch. Boro
15. Shri Maneswar Swargiari
16. Shri Lohit Ch. Boro
17. Shri Rabi Ram Boro
- ~~Shri Gajendra~~
18. Shri Gajendra Nath Boro
19. Shri Hareswar Boro
20. Shri Ganesh Narzary
21. Shri Samala Boro
22. Shri Suren Ramchiary
23. Shri Hali Ram Basumotary
24. Shri Sanjit Kr. Basumatary
25. Shri Upen Narzary
26. Shri Swlung Khang Mushahary
27. Shri ~~Shri~~ Ramesh Chandra Ramchiary
28. Shri Pradip Kumar Boro.
29. Shri Kabiram Mushahary

30. Shri Sankar Dev Boro
31. Shri Paren Dev Sutradhar
32. Shri Atul Mushahary.

All are ex-casual labourers in the
Alipurduar Division, N.F. Railway

... Applicants

AND

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

... Respondents

DETAILS OF APPLICATION

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

The instant application is directed not against any particular order ; but is preferred making a grievance against the apathy shown by the respondents in respect of the benefits admissible to be applicants under Rules as casual labourers. The application is also directed against the apathy shown by the respondents in not granting the required ex-post facto approval entitling the applicants the benefits admissible to the casual labourers.

2. JURISDICTION OF THE TRIBUNAL:

The applicants declare that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicants further declare that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicants are citizens of India and permanent residents of Assam. They all belong to the scheduled tribe category and accordingly they are entitled to special privileges as has been guaranteed by the Constitution of India and the laws framed thereunder from time to time. Since all the applicants have a common grievance arising out of a common cause of action hence they have come before this Hon'ble Tribunal in this joint application u. (S)(a) of CAT's (Procedure) Rules 1987.

4.2 That all the applicants were in casual service under the respondents. They were appointed on being selected for engagement in casual service. Eversince their appointment as casual labourers, they had been discharging their duties to the satisfaction of all concerned. All of them have got requisite number of working days so as to get the benefit of temporary status as well as other benefits as admissible under the relevant rules and so also as per the dictum laid down by the Apex Court. The applicants crave leave of this Hon'ble Court to refer to the relevant rules as well as the decision of the Apex Court in support of their contentions.

4.3 That the applicants were illegally discharged from their services on various dates as indicated in subsequent paragraphs and Annexures. Some of them even after such discharge have been working in the Railways under the contractors which also entitle them to the benefits under

the Contract Labour (Regulation and Abolition) Act, 1970 and the rules framed thereunder.

4.4 That the applicants as stated above, were illegally discharged from service even after rendering services and entitling them conferment of temporary status. Due to poverty and being not acquainted with the relevant rules and regulations they could not protest against their such illegal discharge from service. It will be pertinent to mention here that for the casual employees working under the railways, ~~an employes~~ a live casual register is to be maintained incorporating therein the name of all casual labourers in order of seniority. The regularisation of service is required to be made from the said register in accordance with the seniority. The names of discharged employees are also entered in the live register and in case of any future vacancies, they are to get preference.

4.5 That ~~the~~ as stated above, all the applicants belong to the scheduled caste category and they hail from very poor families and all of them belong to the lower stratum of the society. In the Railways there are back log vacancies in Group-D category to be filled up from amongst the casual labourers whether existing or discharged. These back log vacancies were never filled up by the Railways to the deprivation of the Scheduled Tribe candidates as well as ex-casual workers belonging to the scheduled ~~an~~ tribe category. Regarding this injustice meted to the members of the S.T. categories, various organisations and Unions including the AISCTREA, N.F. Zone, Maligaon took up the matter with the respondents as a consequence

of which the respondents woke up from their slumber and eventually by a letter No.E.227/RESV(F)/AP dated 13.2.95 issued by the respondent No. 2, the Divisional Railway Manager (P), APDJ and addressed to the General Manager/Construction, Maligaon on the subject of special recruitment drive of SC/ST candidates asked for particulars of 56 construction ex-casual labourers (ST) as mentioned in the letter. The applicants are entitled to be considered under the said letter dated 13.2.95. According to the contents of the letter - special recruitment drive was in process and due to non-availability of the S.T. candidate amongst the existing casual labourers in the R APDJ Division, a combined seniority list of the Division for SC/ST ex-casual labourers of open line and construction organisation, had been submitted by the Divisional Secretary AISCTREA/APDJ. In the said list, names of 56 numbers of construction ex-casual labourers had been shown and accordingly, to ensure the genuineness of the said candidates, the information as indicated in the letter were called for.

A copy of the letter dated 13.2.95 is annexed herewith as ANNEXURE-1.

4.6 That in response to the said letter dated 13.2.95 the Snior Personnel Officer (Construction), N.F. Railway Maligaon for General Manager, Construction addressed a letter No.E/255/CON/Seniority/CL/Pt-VI dated 31.3.95 to the Dy. CE/CON/JPZ and XEN/CON/GC/MLG requesting them to verify that the relevant records and to confirm immediately whether the 56 ex-casual labourers had worked

for the specific period as indicated in the construction organisation or not. Having not received any response, the same authority again issued letter No.E/57/CON/I(GC)/ST dated 10.4.95 requesting to furnish full service period and reason of discharging etc.

Copies of the letters dated 13.3.95 and 10.4.95 are annexed herewith as ANNEXURES-2 and 3 respectively.

4.7 That again the same authority ~~passed~~ ^{by} its letter No.E/57/CON(SC/ST) dated 24.4.95 addressed to the DRM(P) APDJ, confirmed that the names of the applicants and ~~xxx~~ those appeared in the relevant records except the persons mentioned therein.

A copy of the letter dated 24.4.95 is annexed herewith as ANNEXURE-4.

4.8 That after the afore said development, the SPO/CON on behalf of the General Manager, Construction, N.F. Railway by his letter No.E/57/CON(SC/ST) dated 4.8.95 addressed to the DRM(P) APDJ furnished the full service particulars of the ex-casual labourers (ST) as indicated in the enclosed statement. In the said letter, it was mentioned that as regards the General Manager's approval, the cases are under scrutiny. It will be pertinent to mention here that as per the Annexure-1 letter dated 13.2.95, amongst others the information as to whether GM's approval was obtained if engaged after 1.1.81 was called for. In the enclosed statements, the particulars of the ex-casual labourers including the applicants were furnished except one as to whether GM's approval was obtained for engagement or not.

A copy of the letter dated 4.8.95 alongwith the statement enclosed therein is annexed as ANNEXURE-5.

4.9 That after the issuance of the aforesaid letter, the applicants were under the bonafide belief and with the legitimate expectation that the necessary approval of the General Manager would be accorded in the cases where it is required and after such approval, there will be no impediment towards appointment of the applicants against the Group D posts meant for S.T. candidates under the special recruitment drive. However, till date the required approval has not been accorded to ~~the~~ by the General Manager, N.F. Railway, and accordingly, the applicants are still deprived of their legitimate benefits as admissible under the rules.

4.10 That the DRM(P)/APDJ by his letter No.E.227/RSSV(E) AP dated 8.8.95 addressed to the General Manager, Construction N.F. Railway, Maligaon requested to communicate the GM's approval in favour of the candidates shown in the list who were engaged on or ~~is~~ after 1.1.81.

A copy of the said letter dated 8.8.95 is annexed herewith as ANNEXURE-6.

4.11 That the applicants state that pursuant to the Annexure-1 letter dated 13.2.95 only impediment against their regular absorption in Group D posts is the approval to be accorded by the General Manager. Although in various communications, it has been indicated that such approval is under consideration and although the DRM(P)/APDJ has ~~asked~~ asked for necessary approval towards appointment of the

candidates mentioned in the list, due to the apathy shown by the respondents, such approval is not forthcoming as a result of which the applicants have been put to sufferings. As ~~xxx~~ stated above, their services were illegally terminated and now when their turn has come for consideration to be appointed against the back log vacancies of Group D posts meant for S.T. category, they are again sought to be deprived by not according the necessary approval of the General Manager. In this connection, it is stated that in many such cases, the casual labourers who were engaged after 1.1.81, the General Manager has accorded ex-post facto approval. Some of the casual labourers who were not given the required ex-post facto approval, had approached this Hon'ble Tribunal making a grievance against the same and the Hon'ble Tribunal was pleased to pass necessary orders, on the basis of which, the General Manager has accorded ~~post~~ ex-post facto approval towards engagement of the casual labourers on or after 1.1.81 and consequently the applicants in the said case have been conferred with all the benefits admissible under the rules. The applicants crave the leave of the Hon'ble Tribunal to refer to and rely upon the said case at the time of hearing of the instant application. The applicants being similarly situated they cannot be treated differently and there is no earthly reason as to why the ex-post facto approval even if required to be accorded to should not be given by the General Manager ^{in respect} ~~in respect~~ of the applicants. This is the only impediment against their regular absorption against S.T. back log Group D vacancies for which their names have already been sent. The applicants did not enter into the Railway

service by any back door policy and they are not at all responsible even if they were not engaged without any approval of the General Manager. After utilising their services in exploitative terms and having disengaged them from their services, the respondents cannot keep away from the benefits admissible to them under the relevant rules as well as the dictum laid down by the Apex Court. The applicants have come ~~to~~ to know that in many such cases, the General Manager has accorded ex-post facto approval towards appointment of the casual labourers on or after 1.1.81 and as such, there is no earthly reason as to why the applicants should be picked up for differential treatment in violation of the Articles 14 and 16 of the Constitution of India.

4.12 That the applicants state that although some of the applicants are not named in the list furnished in Annexure-5 letter dated 4.8.95, it is their specific case that they were all engaged as casual labourers under the Railways and their services have been illegally terminated. The respondents are duty bound to trace out the records and then to furnish necessary particulars in respect of those applicants.

4.13 That the applicants state that they being the ex-casual labourers under the N.F. Railway and their names having been entered into the live register they are entitled to be considered for any future appointment under the relevant rules. They are also entitled to the benefits of the provisions of Industrial Disputes Act. Accordingly,

although the process for their appointment in Group D S.T. backlog vacancies was initiated, the only stumbling block towards their appointment is the apathy shown by the respondents in not accordingly required approval. The benefits accrued to them under the relevant rules cannot be taken away in the manner and hence this application for appropriate relief. The applicants have got no other alternative or efficacious remedy than to come under the protective hands of this Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the applicants being ex-casual labourers of the N.F. Railway and their names having been entered in the live register they are entitled to the benefits as admissible under the rules and the respondents cannot deprive them of the same by adopting a non-challant attitude.

5.2 For that the process of their appointment against Group-D vacancies having been initiated and the only impediment against their appointment being the approval of the General Manager towards their engagement on or after 1.1.81, same should be removed by necessary ex-post facto approval, if required to be given by the General Manager.

5.3 For that the respondents by their apathy and non-challant attitude ~~xx~~ cannot take away the benefits admissible to the applicants under the relevant rules and also under the dictum of the Apex Court.

5.4 For that the relevant particulars having been

furnished in respect of the applicants, the respondents cannot shirk of their responsibilities towards completion of the entire process in respect of appointment of the applicants in the available Group D back log S.T. vacancies and in the process, the applicants cannot be made to suffer.

5.5 For that the General Manager in other similar cases having accorded ex-post facto approval there is no earthly reason as to why the same treatment should not be extended to the applicants, other wise there will be violation of Articles 14 and 16 of the Constitution of India, and so also the principles of natural justice.

5.6 For that the respondents cannot take advantage of the fact that the applicants belong to the lower stratum of the society and all of them being members of the S.T. community they are entitled to the special privileges and lack of their knowledge and information regarding the benefits to which they are entitled to cannot give a right to the respondents to deprive them of the said benefits.

5.7 For that ~~the~~ under the facts and circumstances, it is a fit case to issue necessary direction to the respondents towards appointment of the applicants in Group D posts as has been processed under the communications mentioned above.

5.8 For that in any view of the matter, the applicants are entitled to the reliefs as has been prayed for in the instant application.

Contd.....P/12.

6. DETAILS OF REMEDIES EXHAUSTED :

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicants further declare that they have not filed any application, writ petition or suit regarding the subject matter in respect of which this application has been ~~be~~ made before any other authority, or Court and/or any other Bench of this Hon'ble Tribunal and no such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that the Hon'ble Tribunal would be pleased to admit this application, call for the records of the case particularly the records containing the service particulars of the applicants and after hearing the parties on the cause or causes that may be shown, and on perusal of the records be pleased to grant the following reliefs to ~~which~~ the applicants :

- 8.1 To direct the General Manager, N.F. Railway, Maligaon to issue necessary approval towards engagement of the applicants on or after 1.1.81 ;
- 8.2 To direct the respondents to confer the benefits admissible to the applicants as casual labourers under the rules.

8.3. To direct the respondents to appoint the applicants against the available back log vacancies meant for S.T. candidates as indicated in the various communications mentioned above.

8.4 Any other relief or reliefs to which the applicants are entitled ~~under~~ and as may be deemed fit and proper by this Hon'ble Tribunal.

8.5 Cost of this application.

9. INTERIM ORDER PRAYED FOR :

The applicants pray that pending disposal of the instant O.A. a direction may be issued to the respondents to consider the case of the applicants as has been assured in Annexure-5 letter dated 4.8.95 and urged upon Annexure-6 letter dated 8.8.95. The applicants further pray to direct the respondents not to fill up the vacancies to the deprivation of the applicants.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

(i) I.P.O. No. : 09345869
(ii) Date : 14.5.96
(iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

V E R I F I C A T I O N

I, Shri Ananda Ramchiary, son of Mahendra Ramchiary aged about 30 years, do hereby solemnly verify and state that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying petition ~~is~~ are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts. Being duly authorised I am competent to swear this verification on behalf of all the applicants.

And I sign this verification on this the 17th day of May 1996.

Sri Ananda Ramchiary

No. E. ...

OFFICE OF THE
DIVL. RLY. MANAGER (P),
ALIPURDUAR JUNC.

DATE: 13/02/93

No. E/227/Resv.(E)AP

To
GM/CON/MLG

Subj:- Special recruitment drive of SC/ST candidates.

Refs:- GM(P)/MLG's letter No.E/227/Resv./spl./92/Clear IV dated 1.7.93.

.....

In order to clear the backlog of SC/ST in group "D" recruitment categories in terms of GM(P)/MLG's letter number quoted above, a special recruitment drive is under process. Due to non availability of ST candidates amongst the existing casual labours in combined seniority list in this Division a list of SC/ST ex-Casual labour of open line and construction organisation has been submitted by the Divl. Secy. AISCTREM/APDJ. In the said list names of 56 Nos. (ST) construction ex-Casual labour have been shown.

To ensure the genuineness of above 56 construction ex-Casual labour(ST), please furnish the following particulars of those 56 ST Casual labour so as to enable this Division to screen them against the ST backlog of this Division.

1. Date of birth.
2. Date of engagement as casual labour.
3. Date of discharge.
4. Number of days worked.
5. Last working place & under whom worked.
6. Whether SC/ST.
7. Whether GM's approval was obtained if engaged after 1.1.81.

Please treat this is most urgent.

DA/One

for Divl. Rly. Manager (P),
Alipurduar Junc.

Copy forwarded for information:- 1. Divl. Secy./AISCTREM

APDJ - This has ref. to his letter No. AISCTREM/APDJ/Div./9/S

DPO dt. 27.10.94 & 27.11.94.

(hcmx/2/95)

for Divl. Rly. Manager (P)/APDJ

original
17/2/95

15
CE/CP/11/11
AP-500/10
E

Handwritten signature

NORTHEAST FRONTIER RAILWAY.

16

OFFICE OF THE
GENERAL MANAGER (CON)
MALIGAON.

No. E/255/CON/SENIORITY/CL/Pt-VI Dated 13/03/95

To : Dy. CE/CON/JPZ.
XEN/CON/GC/MLG.

Subj:- Special recruitment drive of
SC/ST candidates.

Ref:- DRM(P)/APDJ's letter No. E/227/Resv.
(E)/AP dated 13-2-1995.

DRM(P)/APDJ vide his letter dated 13-2-95 (Copy enclosed) has forwarded a list of 56 Nos. Ex. Casual Labour (ST) for verification of their casual service rendered under PWI/BG/BNGN.

On verification it is seen that the names of these 56 Nos. Ex. CL are not appearing in the seniority list of BNGN Unit furnished by XEN/CON/BNGN vide No. W/227/BG-BN/E/57/212 dated 27-2-87. Moreover XEN/CON/BNGN did never sent the list of these 56 retrenched CLs for inclusion in the Live Register of Constn. Orgn.

In view of above, you are requested to verify with the others relevant records of XEN/CON/BNGN and confirm immediately whether these 56 Ex-CLs were worked for the specific period as indicated in the list in Const. Orgn. or not.

Please treat this as MOST URGENT.

DA:- DRM(P)/APDJ's letter
No. E/227/RESV (E)AP dt.
13-2-95 with its
enclosures.

(C. SAIKIA)
SPO/CON
for GENERAL MANAGER (CON).

Copy forwarded for information and necessary action to:-

- 1. DRM(P)/APDJ.
- 2. PWI/BG/BNGN.

Received one letter
of Dy. CE/CON/JPZ

C Saikia
13/3

(C. SAIKIA)
SPO/CON
for GENERAL MANAGER (CON).

SS/MLV: 13/3/95
[Handwritten signatures and initials]

RECEIVED
13/3/95

[Handwritten signature]

Office of the
General Manager(CON)
Maligaon.

Dated 31.3.95
10.4.95

NO: E/57/CON/1(CC/ST) - 17

To
XEN/CON/G-C/MLG

Sub: Special recruitment drive of
SC/ST candidates.

Ref: This office letter No. E/255/CON/
Seniority/OL Pt. VI dated 13.3.95.

Your attention is invited to this office letter
of even number dated 13.3.95 (Copy enclosed) wherein
you were requested to furnish the service particular
of 56 Nos. ex-casual labour. But your reply in this
regard is still awaited.

You are therefore ~~xxx~~ once again requested to
confirm whether these 56 Nos ex-casual labour were
initially engaged under XEN/BG/CON/BNGN and if so
~~farthar~~ furnish the full service period and reasons of
discharge thereof.

Please treat this as Most Urgent.

DIA. as above
* 4 pages

(C. SAIKIA)
SPO(CON)
for General Manager(CON)

Copy forwarded for information to:

1. GM(P)/MLG
2. DRM(P)/APDJ in reference to his letter No.
E/227/Resv(E)AP dated 13.2.95.

Chia
10/4
(C. SAIKIA)
SPO(CON)
for General Manager(CON)

S/c

Amr

N.F. Railway.

Office of the
General Manager/Con
Maligaon.

No. E/57/CON/(SO/ST)

Dated, 24.4.95.

DRM(P)/AEDJ

Sub:- Special recruitment drive of SO/ST candidates.

Ref:- Your letter No. E/227/HESV/(E)AP dt. 13.2.95.

Regarding casual service of 56 Nos. ex-Casual Labour(ST) have been verified with the seniority list furnished by XEN/BG/CON/BNGN. But the names of these CLs are not found there.

XEN/BG/CON/BNGN office was wound up in 1937. However, remark was asked from the present custodian of this closing Unit to ensure the genuineness of casual service if rendered under XEN/BG/CON/BNGN.

Dy CE/CON/JPZ vide his letter No. E/227/CON/JPZ Pt. II dated 27.3.95 (copy enclosed) has sent only some lists of selected candidates from old record regarding engagement in casual service and in these lists names of above ex-casual labours are appearing except Shri Naren Ch. Boro son of Phaniram Boro and Ratan Ch. Boro son of Jamuna Boro (List enclosed).

In the list of 56 serial namely 55 and 56 are duplicate to 13 and 12 respectively.

This is for your information and necessary action please.

DB. As above

(O. Saikia)
SPO/CON/MLG
for General Manager/Con

Copy forwarded for ~~in~~ kind information & necessary action to GM(P)/Maligaon.

[Signature]
24/4
for General Manager/Con
N.F. Railway, Maligaon.

S/C

[Signature]
R/Con

N.F. RAILWAY.

Office of the
General Manager (CON)
Maligaon.

NO: E/57/CON(SC/ST)

Dated 4-3-95

To
DEM(P)/APDJ

Sub: Special recruitment drive
of SC/ST Candidates.

Ref: Your letter No. E/227/Resv(E)
AP dt. 19.6.95.

In reference to your letter dated 19.6.95
on the above subject the full service particulars
of 46 Ex-Casual Labour (ST) under XEN/BO/CON/
BNGN is furnished in the enclosed statement as
per prescribed proforma for further disposal
at your end. Regarding GM's approval the cases
are under scrutiny.

Further, working period of Shri Meni Ram
Boro son of Late Umesh Oh. Boro is under verifi-
cation and will be sent separately.

DA: One Statement

(B. DEVGUPTA)
SFO(CON)
FOR GENERAL MANAGER(CON)

Copy forwarded for information and necessary
action to :

1. GM(P)/MLG with One Statement.
2. DY. GE/CON/JPZ in reference to his
letter No. E/255/CON/JPZ dated 17.7.95.

(B. DEVGUPTA)
SFO(CON)
FOR GENERAL MANAGER(CON)

AM
AM

No. E/227/Resv(E)AP

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

August 8, 1995.

GM/CON/Maligaon

ANNEXURE 6

(for personal attention of Shri B.Devgupta, SFO/CON)

Sub : Special recruitment drive of SC/ST candidates.

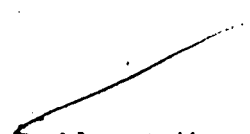
Ref : Your letter No.E/57/CON(SC/ST) dt. 4.8.95.

In your letter under reference, you have mentioned that GM's approval of the cases are under your scrutiny.

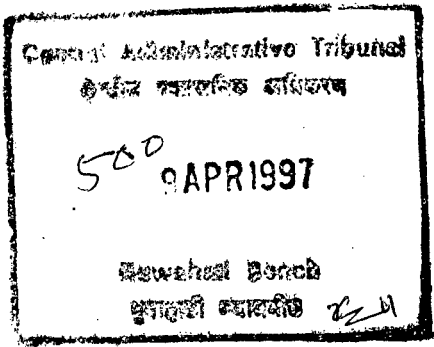
Since nothing can be done for screening of the staff engaged in the Railway service on or after 1.1.81 without GM's personal approval, you are requested to kindly communicate GM's personal approval in favour of all the candidates shown in your list who ~~were~~ were engaged on or after 1.1.81 and also send a copy of such approval to this office for office record. A very early action in the matter is requested.


for Divisional Railway Manager (P),
Alipurduar Junction.

Copy to GM(P)/Maligaon for information please. This refers to GM/CON/Maligaon's letter under reference addressed to DRM(P)/APDJ with a copy to him and others.


for Divil. Railway Manager (P),
Alipurduar Junction.

Altered for AMN



Filed by
M. D. Choudhury
Adv. Admit.
9-4-97
✓ Prasan Kumar Gupta

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O. A. No. 79 of 1996

Sri Ananda Ranchorary & Others.

... Applicants.

Vs.

Union of India & Others.

... Respondents.

AND

IN THE MATTER OF :-

Written statements on behalf
of the respondents.

Received
9/4

The respondents beg to state as follows :-

1. That the answering respondents have gone through a copy of the application filed by the applicants and have understood the contents thereof.

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne on records are also denied.

Signature
9-4-97

3. That with regard to the statements made in paragraph 4.1 of the application, the answering respondents do not admit anything contrary to relevant records of the case. ✓
4. That with regard to the statements made in paragraph 4.2 of the application, it is stated that all the applicants had been working as Casual Labour under different subordinates under Executive Engineer/BG/CON/Bongaigaon.
5. That with regard to the statements made in paragraph 4.3 of the application, it is stated that the record reveals that all of them had not been discharged from their services of casual labour, rather they had left from the service without any notice.
6. That with regard to the statements made in paragraph 4.4 of the application, the answering respondents state that as per Board's provision casual labour who had been discharged after 1.1.81, their names had duly been maintained in Live Register in order of seniority. After scrutiny of the Live Register, the names of the alleged casual labour (the applicants) were not appearing on the register which leaves no doubt that they had left services at their own and not discharged.
7. That with regard to the statements made in paragraph 4.5 of the application, it is stated that since the

applicants had left without information and voluntarily from the services of casual labour and their whereabouts were not known to the Organisation, the letter dtd 13.2.95 issued by Divisional Railway Manager(P)/Alipurduar will not be applicable to the alleged Ex-Casual Labour.

8. That with regard to the statements made in paragraph 4.6/ & 4.7 of the application, it is stated that in response to the letter dtd 13.3.95 addressed to Deputy Chief Engineer/C/Jogighopa and Executive Engineer/CON/GC/Malignon, requesting their to verify the relevant records regarding the services of 56 Ex-Casual Labour, on verification of the record the report received from Dy. Chief Engineer/C/Jogighopa vide their No. E/255/CON/JPZ dated 17.7.95, it was found that some of those Ex-Casual Labour had left their services and some were under order of transfer to different subordinates where the work was prevailing, but ~~xxx~~ they did not report to the Subordinate concerned.

9. That with regard to the statements made in paragraph 4.8 of the application, the answering respondents beg to state that all of them were initially engaged after 1.1.81 except serial No. 18 of the alleged Ex-Casual Labour and their engagements were not approved by General Manager, although as per Board's provision, GM's prior approval

before engagement of any casual labour was obligatory. But the alleged Ex-casual labours were although engaged as casual labour but their initial engagement were not in conformity of the Board's instruction. However, because of ~~the Board's~~ their voluntarily leaving the service un-noticely that is the basic cause of not incorporating their names in the Live Register. Letter dated 4.5.95 as cited in this para is not in conformity for the casual labour whose names had not appeared in the interpolated seniority list of DRM(P)/Alipurduar

Shukla

10. That with regard to the statements made in paragraphs 4.9 and 4.10 of the application, the answering respondents reiterate and reaffirm the statements made here-in-above.

11. That with regard to the statements made in paragraph 4.11 of the application, it is stated that as the whereabouts of the alleged Ex-casual labour were not there since without the knowledge of the administration they had left at their own volition, as such question of post-facto approval of General Manager does not arise.

12. That the answering respondents submit that the instant O.A. is grossly barred by limitation. There is no cause of action for preferring the instant O.A. Same is also

(25)
43

[Handwritten signature]
✓

barred by the principles of waiver, estoppel and acquiescence. Further, the O.A. is bad for non-joinder of necessary parties.

13. That the answering respondents submit that the applicants by filing the instant O.A. have taken a chance for favourable consideration from this Hon'ble Tribunal. They having left the railways of their own volition and now after a lapse of several years cannot claim for their re-engagement and that too, to the deprivation of other eligible candidates. Their names have already been removed from the casual Labour Live Register. Their whole claim is based on some departmental correspondence which do not vest them with any right of any engagement.

14. That under the facts and circumstances stated above, the instant application is not maintainable and liable to be dismissed with cost.

Verification.....6

V E R I F I C A T I O N .

I, Shri Prasun Kumar Gupta, aged about 55 years, by occupation Railway Service, working as Dy. Chief Engineer / con / G C, of the N.F. Railway administration, on behalf of the respondents, do hereby solemnly affirm and state that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraph 3 to 12 are true to my information being matter of records of the case which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

Prasun Kumar Gupta

CHIEF ENGINEER
1-अभियन्ता/समण/मज-परिवर्तन
N. F. Railway, Maligaon.
पूर्वाञ्चल बीमा रेकर्ड, मालीबाँस