

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 133/96

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SECTION OFFICER (Judl.)

Barhate
29/11/98

CENTRAL ADMINISTRATIVE TRIBUNAL
GUARDED BY LAW

DA No. 133/96

MP No. (DA)

RA No. (DA)

CP No. (DA)

Dr. R. D. Davony & Ors. APPLICANT(S)
VERSUS

Union of India & Ors. RESPONDENT(S)

Mr. B. Nello & S. Sarma Advocate for the applicant.

Mr. B. K. Parome, R.G. Advocate for the Respondents.

Office Notes

Court's Orders

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO RD No 345934
Dated 23.6.96

R.P. 25/9
D.P. Register

30.7.96 Mr S. Sarma for the applicants
None for the respondents.

5 applicants have jointly
submitted this application. Heard
Mr. Sarma and the applicants are
permitted to join together in a
single application under Rule 4(5)
(a) of the C.A.T (Procedure) Rules
1987 as they fulfil the condition
therein.

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 22.8.96.

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

2.8.96
Notice issued to
the respondents.

2.8.96

Box

6
Member

(6)

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 to 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.

29.8.96

Notice duly served on respondent No. 1.

60
Member

pg

3.10.96

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

List for written statement and further orders on 13.11.96.

60
Member

pg
M
3/10

13.11.96

None present. Written statement has not been submitted.

List for written statement and further orders on 6.12.96.

60
Member

pg
M
14/11

(3)

O.A. No. 133 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 12.1.1997.

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 and 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. 133 of 1996.

10-1-97
Notice duly served
on Respondent No-1

w/statement has
not been filed.

trd

W/6/12

6/12
Member

15.1.97

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

List for written statement and further orders on 11.2.97.

10.2.97
1) Notice duly served
on R-1.

2) NO W/S has been
filed.

W/10/2

nkm

W/5/1

6/12
Member

11.2.97

Mr B.K.Sharma, learned counsel for the respondents prays for further extension of time for filing written statement. Several adjournments have been granted. We do not see any reason to give further extension of time.

Let this case be listed for hearing on 4.4.1997.

Notice duly served
on R-1.
No W/S is being filed.

6/12

JK

(4)

24-4-97~~Written statement filed
on behalf of the
respondents at page 21
to 26~~

By

4.4.97

The Division Bench is not
sitting. The case is, therefore,
adjourned to 16.5.97.
Vice-Chairman24-4-97

In terms of order
of 11.4.97 passed in mt
on 9/1/97 (OA 133/96) the
Respondents have filed
Written Statement.

nkm


814

16.5.97

Left over. List on 17.7.97
for hearing.
Member
Vice-Chairman

Bench as

Now the case is
placed for ~~listing~~ ~~on~~
~~listing~~ hearing before
Division Bench.


201517.7.97 Left over. Case to
be listed on 14.8.97.

By order


Dr
M.L.

of statement has been filed

14-8-97

Division Bench is not
sitting. Let this case be listed
for hearing on 5-11-97.BY ORDER

5-11-97

~~Mr. S. Arma learned counsel
appearing on behalf of the applica-
nts submits that there has been devel-
opment in the Railway Administra-
tion in as much as the Railway Adminis-
tration is considered to absorb the
applicants. He (does not) want to
withdraw the petition and to
approach the authority. Applicati-
on is dismissed on withdrawal.~~Case is ready for
hearing

S. Arma filed

of S. Arma filed

Member

Vice-Chairman

5-11-97

Mr. S. Sarma learned counsel appearing on behalf of the applicants submit that there has been development in the Railway Administration in as much as the Railway Administration is considered to absorb the applicants. He wants to withdraw the petition and to approach the authority. Prayer is allowed. Application is dismissed on withdrawal.


Member


Vice-Chairman

lm

368
5/11/1996

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH

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

Title of the case : O.A. No. 133 of 1996

Shri Robin Daimary & Ors Applicants

-Vs-

Union of India & Ors Respondents

I N D E X

Sl. No.	Particulars of the documents	Pages No.
1.	Application	— 1, to 13.
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4.	Annexure -1	15.
5.	Annexure -2	16.
6.	Annexure -3	17.
7.	Annexure -4	18.
8.	Annexure -5	19.
9.	Annexure -6	20.

Four use in Tribunal's
office :-

Date of filing : 25.7.96

Registration No : OA 133/5

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWATHI BENCH.

O.A. No. 132 /96

BETWEEN

- 1) SHRI RABIN DAIMARY
- 2) SHRI RATNESWAR DAIMARY
- 3) SHRI GOBINDA BASUMATARY
- 4) SHRI SHRI CHARAN SINGH KOCHA
- 5) SHRI NIRANJAN BASUMATARY

Add. for Communication.

G/o S. SARMA. Advocate.
Rehabari - 781008 (G.H.Y).
Assam.

.....Applicants.

AND

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

.....Respondents.

DEATILS OF APPLICATION

1. PARTICULAR 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 respondent in respect of

Filed by the applicants
through
B

the benefits admissible to the 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/prescribed under Sec 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :-

That the applicants are citizen 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.

The applicants are all ex-casual labourers and their grievances, subject matter and the reliefs sought for in this application is similar in nature. Therefore, the applicants Crave Leave of this Hon'ble Tribunal to allow them to join together in a single petition to minimise the cost as well as to minimise the precious time of this Hon'ble Court,

invoking its power under Rule 4(5)(a) of Central Administrative Tribunal, (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 of casual labourers, they had been discharging their dueties 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 disctum 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 service 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 entitled 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, a live casual register is to be maintained incorporating therein the name of all casual labourers in order of seniority. The names of discharged employee are also entered in the live register and in case of any future vacancies, they are to get preference.

- ✓ live register and in case of any future vacancies, they are to
- ✓ get preference.

4.5. That 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 Gr-D category to be filled up from amongst the casual labourers whether existing or discharged. Those 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 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 E227/RESV (P)/AP dated 13.2.95 issued by the respondent No.2, the Divisional Railway Manager (P), APDJ and addressed to the General Manager/ ~~Construction~~ 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. candidates amongst the existing casual labourers in the APDJ Division, a combined seniority list of the Division for SC/ST ex-casual labourers of open line and constructions organisation, had been submitted by the

Divisional Secretary, AISCTREA/APDJ. In the said list, names of 56 members 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 Sr. Personnel Officer (Construction).N.F. Railway Maligaon for General Manager, Construction addressed a letter No.E/255/CON/Seniroity/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, or not. Having not received any response, the same authority again issued letter No. E/57/CON/I(GC)/ST Dt.10.4.95 requesting to furnish full service period and reason or discharging etc.

Copies of the lts. dt. 13.3.95 and 10.4.95 are annexed herewith as ANNEXURE -2 & 3 respectively.

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

A Copy of the lt. dt.24.4.95 is annexed herewith as ANNEXURE-4.

4.8. That after the aforesaid development, the SDO/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 DGM(P) APDJ furnished the full services/particulars of the ex-casual labourers (ST) as indicated in the enclosed statement.

✓ statement. In the said letter, it is 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 statement, 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 Thereafter 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 Gr-D posts meant for S.T. candidates under the special recruitment drive. However, till date the required approval has not been accorded to 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/RESV/(E)/AP Dt. 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 or or 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 Gr- 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 for necessary approval towards appointment of the candidates continued 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 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 Gr-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 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 leave of the Hon'ble Tribunal to refer to and rely upon the said case at the time of hearing of the instant applications. 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 of the applicants. This is the only impediment against their regular absorption against S.T. backlog Gr-D vacancies for which their names have already been sent. The applicants did not enter into the Railwayservices 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 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.

-90-

The respondents are duty bound to trace out the records and them to furnish necessary ~~participate~~ particulars in respect of the 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 Gr-D ~~SET~~ backlog vacancies was initiated, the only stumbling block towards their appointment is the only apathy shown by the respondents is 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'S 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 Gr-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 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 Gr- D back long 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 their 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 ~~status-of~~ 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 under the facts and circumstances, it is a fit case to issue necessary direction to the respondents towards appointment of the applicants in Gr-D posts as has been processed under the communications mention above.

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

xxx

6.0 DETAILS OF REMEDIES EXHAUSTED :-

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

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY 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 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 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 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 fill up the vacancies to the deprivation of the ~~applicants~~ applicants.

10.....

The application is filed through Advocate

AP

20

-13-

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. No : 8 09 345936

(ii) Date : 23.6.96

(iii) Payable at : Guwahati

12. LIST OF ENCLOSURES:

A₈ stated in the Index

Verification.....

20

VERIFICATION

I, Shri Robin Daimary, Son of Shri I. Doimary, 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 are true to my knowledge and those made in paragraphs 5 are true to my megal advice and I have not suprseed any material facts. Being only authorised I am competent to swear this aff verification on behalf of all the applicants.

And I sign this verification on this
the 23rd Day of June, 1996 at Guwahati.

Deponent

22
Shri Robin Daimary
(RABIN DAIMARY)

AS ANNEXURE I (59) 68

Ex-Ex. ~~Redundant~~

OFFICE OF THE
DIV. MGR. (P),
ALIPURDWAR JUNC.

ANNEXURE- 1

No. E/227/Resv.(E) & P

DATE: 13/02/95.

To
GM/CON/MLG

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

Ref:- GM(P)/MLG's letter No.E/227/Resv./spl./92/Clear -
I V 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. ALSC/MLG/APDJ. In the said list names of 54 Nos. (ST) construction ex-Casual labour have been shown.

To ensure the genuineness of above 50 construction ex-Casual labour(ST), please furnish the following particulars of those 50 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. Mgr. Manager (P),
Alipurduar Junc.

Copy forwarded for information:- 1. Divl. Secy./ALSC/MLG/APDJ - This has ref. to his letter No. ALSC/MLG/APDJ/Div./9/Sr. DPO dt. 27.10.94 & 21.11.94.

(hcmx/2/95)

for Divl. Mgr. Manager (P)/APDJ.

Attest.

Attested.

Advocate.

Advocate.

NORTHEAST FRONTIER RAILWAY.

ANNEXURE- 2

OFFICE OF THE
GENERAL MANAGER(CON)
MALIGAON.

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

To : Dy. CE/CON/JPZ.
XEN/CON/CC/MLG.Sub:- 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 PWL/BG/BNQN.

On verification it is seen that the names of these 56 Nos. Ex.CL are not appearing in the seniority list of BNQN Unit furnished by XEN/CON/BNQN vide No. W/227/BG-BN/E/57/212 dated 27-2-87. Moreover XEN/CON/BNQN 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/BNQN and confirm immediately whether these 56 Ex-CLs were worked for the specific period as indicated in the list in Constn.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).

Attested.

Copy forwarded for information and necessary action to:-

1. DRM(P)/APDJ.
2. PWL/BG/BNQN.

Attested.

Advocate.

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

Received one letter
of Dy. CE/CON/JPZ

SS/NLV

3/3/95

RECD
SEARCHED
INDEXED
FILED
... (3) 3/3/95

Chet
13/3

De

Office of the
General Manager(CON)
Maligoan.

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/CL 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 once again requested to
confirm whether these 56 Nos ex-casual labour were
initially engaged under XEN/BC/CON/BNGN and if so
further furnish the full service period and reason 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.

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

S/C

Attested.

Advocate.

Attestd.

Advocate.

N.F.Railway.

Office of the
General Manager/Com
Maligaon.

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

Dated. 24.4.95.

DRM(P)/APDJ

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

Ref:- Your letter No.E/227/RISV/(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 1987. 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.

By QE/CON/JPZ v/s 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.

D.D. As above

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

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

24/4
for General Manager/Com
N.F.Railway, Maligaon.

Attested.

Advocate.

Attested.

Advocate.

S/G

Office of the
General Manager (OON)
Maligoan.

No:E/57/OON(SO/ST)

Dated 4-9-95

To
DIM(P)/APD

Sub: Special recruitment drive
of SO/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/EO/CON/ENGN is furnished in the enclosed statement as per prescribed preforms for further disposal at your end. Regarding GI's approval the cases are under scrutiny.

Further, working period of Shri Moni Ram Boro son of Late Umesh Oh. Boro is under verification and will be sent separately.

DA: One Statement

(B. DEVCUPTA)
SFO(OON)
FOR GENERAL MANAGER(OON)

Copy forwarded for information and necessary action to :-

1. GM(P)/MLG with One Statement.

2. DY.OE/CON/JPZ in reference to his letter No. E/255/OON/JPZ dated 17.7.95.

(B. DEVCUPTA)
SFO(OON)
FOR GENERAL MANAGER(OON)

S/c

Attested.

Advocate. Attested.
Advocate.

N. F. Railway.

Office of the

Divisional Railway Manager (P),
Alipurduar Junction.

E/227 | Resv (E) AP 20

August 8, 1995.

ANNEXURE 6

GM/CON/Maligaon

(for personal attention of Shri B. Devgupta, SRO/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.

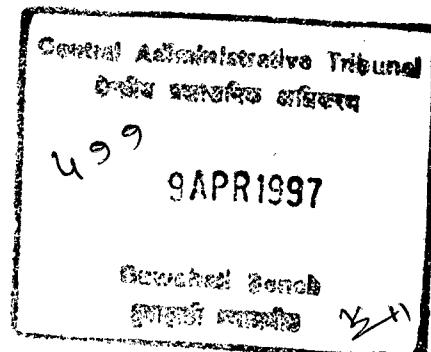
for Civil Railway Manager (P),
Alipurduar Junction.

Attested.

Attested.

Advocate.

Advocate.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 133 of 1996

Sri R. Daimari & Others.

... Applicant.

Vs.

Union of India & Others.

... Respondents.

AND

IN THE MATTER OF :-

Written statements on behalf
of the respondents.

*Received
of
9/4/97*

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.

Contd....2

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 9.4.97
 Prasun Kumar Gupta
 Stanley Coor
 Barrister Advocate
 Pilkiana
 1/1

- 2 -

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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

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~~Copy~~

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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 and 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 them to verify the relevant records regarding the services of 56 Ex-casual labour and 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 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 labour were although engaged as casual labour but their initial engagement were not in conformity of the Board's instruction. However, because of their voluntarily leaving the services un-noticeably, that is the basic cause of not incorporating their names in the Live Register. Letter dated 4.5.95 ~~as-erited~~ 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)/Alipurdunr.

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

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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.

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

Verification....6

(26)

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VERIFICATION.

I, Shri Prasun Kumar Gupta, aged about 55 years, by occupation Railway Service, working as Dy. C.E./C./G.C./N.F.Rly./Malg. 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 paragraphs 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

✓ **BY, CHIEF ENGINEER/CON/GC**
प्य-मुख्य-अभियन्ता/निर्माण/गेज-परिवर्तन
N. F. Railway, Maligaon
एपोत्तर सीमा रेल्यू. मालीगांव