

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 040/00188/2018

Date of Order: This, the 22nd day of November 2018

THE HON'BLE SMT. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. N. NEHSIAL, ADMINISTRATIVE MEMBER

1. Sri Ajant Boro
S/o Sri Mani Ram Boro
Village – Koptupali, P.O. – Hanchara
P.S. – Bijni, District : Chirang (BTAD)
Assam, Pin – 783390.
2. Sri Brijesh Chandra Boro
S/o Sri Jogen Boro
Village – Dahara (Baghbari)
P.O. & P.S. – Rangia, District : Kamrup
Assam, Pin – 781354.
3. Sri Dilip Choudhury
S/o Sri Rameswar Choudhury
Village – Dahara (Baghbari)
P.O. & P.S. – Rangia, District : Kamrup
Assam, Pin – 781354.
4. Sri Rabindra Boro
S/o Sri Chandra Kanta Boro
Village – Batiamari, P.O. – Kalbari
District : Nalbari, Assam, Pin – 781367
5. Sri Lachit Kumar Basumatary
S/o Sri Puna Ram Basumatary
Village – Nizdefeli (Maraigaon)
P.O. – Zarkana, District – Nalbari
Assam, Pin – 781367.
6. Sri Pabitra Wary
S/o Sri Mahim Wary
Village – Batiamari, P.O. – Kalbari
District – Nalbari, Assam, Pin – 781367.

7. Sri Ram Nath Thakuria
S/o Sri Dayal Thakuria
Village – Murara, P.O. –Rangia
District : Kamrup, Assam, Pin – 781354.
8. Sri Moni Ram Boro
S/o Sri Umesh Boro
Village – Kalbari, P.O. – Kalbari
District – Nalbari, Assam, Pin – 781367.
9. Sri Jiten Boro
S/o – Late Bipin Boro
Village – Kalbari, P.O. – Kalbari
District – Nalbari, Assam, Pin – 781367
10. Sri Upen Boro
S/o Bhandu Boro
Village – Hermjar, P.O. – Madhapur
P.S. – Barama, District – Nalbari
Assam, Pin – 781346.
11. Sri Rajen Swargiary
S/o Sri Habi Ram Swargiary
Village – Purni Geraj, P.O. – Tetonbari
P.S. – Helem, District – Sonitpur
Assam, Pin – 781346.
12. Sri Makhthang Daimary
S/o Sri Langa Daimary
Village – Kalbari, P.O. – Kalbari
District : Nalbari, Assam, Pin – 781367.
13. Sri Ratan Chandra Boro
S/o Late Jamuna Boro
Village – Batiamari, P.O. – Kalbari
District: Nalbari, Assam, Pin – 781367.
14. Sri Kartik Narzary
S/o – Sri Baya Ram Narzary
Village – Bilpar, P.O. – Tamulpur
District: Nalbari, Assam, Pin – 781367.

15. Sri Warga Ram Daimary
S/o Sri Maya Ram Daimary
Village – Kalbari, P.O. – Kalbari
District: Nalbari, Assam, Pin – 781367.
16. Sri Bipul Ramchiary
S/o Agin Ramchiary
Village – Barkachula, P.O. – Bagh Daba
District: Baksa, Assam, Pin – 781366.
17. Sri Monoj Kumar Basumatary
S/o Sri Jogeswar Basumatary
Village – Bongaon, P.O. – Rangia
District: Kamrup, Assam, Pin – 781354.
18. Sri Lalit Chandra Boro
S/o Sri Durga Boro
Village – Dahara (Baghbari)
P.O. & P.S. – Rangia
District: Kamrup, Assam, Pin -781354.
19. Sri Girish Chandra Basumatary
S/o Sri Sombar Basumatary
Village – Kalbari, P.O. – Kalbari
District: Nalbari, Assam, Pin – 781367.
20. Sri Maheswar Boro
S/o Late Banga Boro
Village – Sarubelbari, (Balukuchi)
P.O. – Zarkona, District – Nalbari
Assam, Pin – 781367.
21. Sri Budhan Ramchiary
S/o Sri Madhab Ramchiary
Village – Dahar (Baghbari)
P.O. & P.S. – Rangia
District: Kamrup, Assam, Pin -781354.
22. Sri Ananta Swargiary
S/o Late Bimal Swargiary
Village – Niz Defeli (Maraigaon)
P.O. Zarkana, District: Nalbari
Assam, Pin – 781367.

23. Sri Bipin Daimary
S/o Sri Nabin Chandra Diamary
Village – Barimuri, P.O. – Charimaria
P.S. – North Lakhimpur
District: North Lakhimpur, Assam
Pin – 787032.
24. Sri Kanistha Basumatary
S/o Jagendra Basumatary
Village – Koptupali, P.O. – Hanchara
P.S. – Bijni, District: Chirang (BTAD)
Assam, Pin – 783390.
25. Sri Samala Boro
S/o Hansa Ram Boro
Village – Niz Defeli (Tanganmara)
P.O. – Niz Defeli, District: Baksa
BTAD, Assam, Pin – 781367.
26. Sri Bapu Ram Boro
S/o Sri Mahan Boro
Village: Balahati, P.O. – Gurmow
District – Kamrup, Assam
Pin – 781366.
27. Sri Lakhi Boro
S/o Sri Nawa Boro
Village – Dahara (Baghbari)
P.O. & P.S.: Rangia
District: Kamrup, Assam
Pin – 781354.
28. Sri Achut Ramchiary
S/o Sri Rajen Ramchiary
Village – Bagariguri, P.O. – Baghmara
District – Barpeta, Assam
Pin – 781328.
29. Sri Nandi Daimary
S/o Zabala Daimary
Village – Rajabil, P.O. – Rupahi
P.S. – Salbari, District – Barpeta
(Baska) BTAD, Assam
Pin – 781318.

30. Sri Dinesh Chandra Boro
 S/o Ana Boro
 Village – Dewelkhanda, P.O. – Mazbat
 District – Udalguri, Assam, Pin – 784507.

All are ex-casual labourers working under the respondents.

...Applicants

By Advocates: Mrs. B. Devi, Ms. T. Kalita & Mr. U. Pathak

-Versus-

1. The Union of India
 Represented by the General Manager
 N.F. Railway, Maligaon, Guwahati – 781011.
2. The General Manager (Construction)
 N.F. Railway, Maligaon, Guwahati – 781011.
3. The Divisional Railway Manager (P)
 Alipurduar Division, N.F. Railway
 Alipurduar, West Bengal - 736121.

...Respondents

By Advocate: Mrs. U. Dutta, Railway Advocate

ORDER (ORAL)

MANJULA DAS, JUDICIAL MEMBER:

To begin with, prayer to join together in a single application under Rule 4(5)(a) of the Central Administrative Tribunals Act 1987, as the reliefs sought for in this O.A. are similar, is allowed.

2. Being aggrieved with the impugned orders dated 16.10.2014 whereby the case of the applicants for absorption was rejected, the applicants has preferred the instant O.A. seeking the following reliefs:

- "8.1 To set aside and quash the identical impugned orders dated 16.10.2014 as the respondents while proceeding to issue the impugned communication ignored the express directives passed by this Hon'ble Tribunal and proceeded to dispose of the claim of the applicants basing on issues which has already been settled by this Hon'ble Tribunal. As such the impugned communication having been so issued is in clear violation of the provisions of the Rules holding the field, directives as passed by this Hon'ble Tribunal and without there being any application of mind.
- 8.2 To direct the Respondents to regularize the services of the applicants.
- 8.3 To direct the respondents to regularize the service of the applicants on the basis of the casual labour identity card which were already declared to be genuine by the respondents as well as the Hon'ble Tribunal.
- 8.4 To direct the Respondents to appoint the applicants against Group-D posts as has been done in case of similarly situated employees."

3. It was submitted by Mrs. B. Devi, learned counsel for the applicants that on being selected, the applicants were

engaged by the respondents as casual mazdoors under the Respondent No. 2, i.e. General Manager (Construction) in various stations under N.F. Railway. They joined their duties on various dates and performed their duties to the satisfaction of the authority. In view of the services rendered by them, they became eligible for conferment of temporary status as well as other benefits eligible under the law. According to Mrs. Devi, while working as such, the applicants had represented before the authority for regularization of their services. Although the concerned authority took up their cases for regularization, however, the process did not yield any fruitful result. The respondent authority all of a sudden, verbally terminated the services of the applicants and they were instructed not to attend office any more. However, even after such discharge, the applicants continued to perform their duties with some artificial breaks.

4. Mrs. Devi further submits that during the period of break and disengagement, the respondents engaged outsiders as Khalasi with the intention to frustrate the claims of the applicants for regularization. According to Mrs. Devi, as per rule, the respondents are duty bound to maintain a live register incorporating the names of all the casual as well as ex-casual

workers and to provide work as per their seniority. He respondents neither maintained live register nor applicants were provided regular work as per their seniority. Non-maintenance of such register, thus, deprived the applicants their due claim for regularization under law.

5. Mrs. Devi further submits that some of the ex-casual labourers approached this Tribunal by filing O.A. No. 79 of 1996 praying for a direction for absorption under the respondents and this Tribunal vide order dated 11.01.1999 disposed of the said O.A. directing the respondents to consider their cases within a stipulate time. Pursuant to the above judgment and order, a screening test was held in the month of December, 1999 for the applicants of O.A. No. 79 of 1999. The respondent authorities, thereafter, issued a memorandum dated 21.04.2000 publishing a list of selected screening ex-casual workers. The respondents took initiative for ex-post facto approval of the General Manager, Railways and accordingly the applicants of the said O.A. were absorbed in Group – D posts.

Mrs. Devi fairly submits that in fact the present applicants are also similarly situated like that of those applicants in O.A. No. 79

of 1999. As such, the respondents ought to have extended similar benefits to the present applicants.

6. Mrs. Devi further submits that the respondent authority had also rejected the claims of some similarly situated person on the same ground as that of the present applicants. Those similarly situated persons have approached this Tribunal by filing O.A. Nos. 413, 424, 433, 434 of 2014 and 11 of 2015 and this Tribunal vide common order dated 31.05.2016 disposed of the said O.A.s by directing the respondents authority once again to consider the case of the applicants therein absorption in Railway. In view of that, the present applicants also pray for a mandamus directing the respondents to absorb the applicants in any Group-D post under N.F. Railway.

7. On the other hand, Mrs. U. Dutta, learned counsel representing the respondents submits that she has no objection if a direction is issued to the respondents to take a lenient view with due verification as to whether the present applicants are similarly situated like that of those applicants in O.A. No. 79 of 1999 as well as applicants in O.A. Nos. 413, 424, 433, 434 of 2014 and 11 of 2015 or not.

8. In view of the above, by accepting the prayers made by the learned counsel for the parties and without going into the merit of the case, we direct the respondents to examine and decide the present issue in the light of judgment rendered by this Tribunal in O.A. No. 79 of 1999 as well as applicants in O.A. Nos. 413, 424, 433, 434 of 2014 and 11 of 2015 and if the applicants are found to be entitled, similar benefits be granted in accordance with law.

9. The respondents are also directed to carry out the whole exercise within a period of three months from the date of receipt copy of this order.

10. O.A. stands disposed of accordingly. No order as to costs.

(N. NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)