

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION NO.578/2012

ORIGINAL APPLICATION NO.580/2012

ORIGINAL APPLICATION NO.824/2011

this the 6th day of August 2019

CORAM:- R.VIJAYKUMAR, MEMBER (A)

RAVINDER KAUR, MEMBER (J)

1. ORIGINAL APPLICATION NO.578/2012

Ananda Baliram Rane, s/o Baliram Rane, Age: about 51 years (Date of Birth: 17.4.1961) Ex.Casual Labour (160520) Worked with: PWI (P-Way Inspector) (Const) Central Railway, Division-Bhusawal. Residing at: Gangaram Plot, Behind Soparkar Building, House No.5/23, Bhusawal, Maharashtra State, Pin Code:425201.

2. ORIGINAL APPLICATION NO.580/2012

Shitlaprasad Ramdhani, Age : about 50 years, (Date of Birth: 1.6.1962), Ex. Casual Labour (10476) Worked with: IOW (C), Central Railway, Bhusawal, Division-Bhusawal. Residing at: Railway Protection Force-Barrack, 717H, Near Railway Quarter, Tal. Bhusawal, District: Jalgaon, Maharashtra State.

3. ORIGINAL APPLICATION NO.824/2011

Prakash Khandu Mhajan, Ex-casual Labour Central Railway Bhusawal Residing at Post Kingaon, Taluka: Yaval, Dist-Jalgaon. ...Applicants

(By Advocate Ms.Vaishali Agane along with Shri Vicky Nagrani)

Versus

1. Union of India through The General Manager, Central Railway, C.S.T. Mumbai-400001.

2. The Divisional Railway Manager, Central Railway, Bhusawal Division, Bhusawal Dist. Jalgaon-425201.

...Respondents

(By Advocate Shri V.D.Vadhavkar along with Shri V.S.

Masurkar)

Reserved on :- 08.07.2019

Pronounced on:- 06.08.2019

O R D E R

R. Vijaykumar, Member (A)

Original Application Nos.578/2012, 580/2012 and 824/2011 were filed on 17.9.2012, 26.9.2012 and 18.11.2011 respectively under section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

Reliefs

**"ORIGINAL APPLICATION NO.578/2012
ORIGINAL APPLICATION NO.580/2012**

(a) This Hon'ble Tribunal may be Graciously pleased to call for the records of the case from the Respondent and after examining the same direct the Respondents to follow the judgment of the Hon'ble Tribunal dated 9.6.2010 in O.A. No.442 of 2004 and 50 others O.A., as confirmed by the Hon'ble High Court in W.P. No.607 of 2011 in Notice of Motion No.187/2011 in W.P. No.2392 of 2006 and Notice of Motion No.188 of 2011 in W.P. No.2442/2006 and directed the Respondent to follow the order of the Hon'ble CAT dated 29th of November, 2011 in O.A. No.762 of 2011, O.A. No.763 of 2011 and O.A. No.764 of 2011.

b) Consequently the Hon'ble Tribunal may be pleased to declare that the order dated 25.11.2011 is illegal and quash the same.

c) Direct the Respondents to screen the Applicant on the basis of notification dated 21.5.1999 and grant him absorption in group 'D' post.

d) The further consequential benefit be granted to the Applicant by declaring the Applicant deserves to be absorbed in group 'D' post w.e.f. **09.10.1998/21.05.1999** with all consequential benefits.

ORIGINAL APPLICATION NO.824/2011

a) This Hon'ble Tribunal may be Graciously pleased to call for the records of the case from the Respondent and after examining the same direct the Respondents to follow the judgment of the Hon'ble Tribunal dated 9.6.2010 in O.A. No.442 of 2004 and 50 others O.A., as confirmed by the Hon'ble High Court in W.P. No.607 of 2011 dated 17.2.2011 & 21.4.2011 in Notice of Motion No.187/2011 in W.P. No.2392 of 2006 and Notice of Motion No.188 of 2011 in W.P. No.2442/2006.

b) Consequently the Hon'ble Tribunal may be pleased to declare that the order dated 25.6.2011 is illegal and quash the same.

c) The further consequential benefit be granted to the Applicant by declaring the Applicant deserves to be screened and absorbed in group 'D' post w.e.f. 21/6/1999 with all consequential benefits.

d) Pass any other & further order as this Hon'ble Tribunal deems fit proper and necessary in the nature & circumstances of the case".

2. This is a second stage litigation by the applicants who had applied for regularisation and

absorption based on a series of instructions issued by the Railway Board and after a last relevant instruction issued by way of a circular dt. 9.10.1998. The General Manager, Central Railway who is respondent no.1 in these OAs further issued circular dt. 18.5.1999 laying down the procedure for screening of casual labour borne on the Live/Supplementary Live Casual Labour Register along with various conditions that had been specified in the said circular. This was followed by another circular of the Railway Board dt. 21.2.2001 on the educational qualifications to be required or relaxed including with reference to age. The applicant filed OA No.109/2004 which was considered along with a batch of OAs, the first of which was OA No.706/2003 and was decided on 25.12.2004 which ordered, in relation to the applicant's OA, as follows and has recorded in para 53(2):

"53(2) O.A. Nos.109/04, 147/04, 152/04, 199/04, 693/04 and 860/03 are dismissed since the names of concerned applicants are not borne on the Live Register/Supplementary Live Register and as such, they do not get any fresh cause of action by virtue of Railway Board Circular dated 9.10.1998 and Notification issued by the General Manager, Central Railway on 18.5.1999".

3. Some of the applicants whose cases were also dismissed in that OA in OA No.692/2003 and OA No.759/2003 approached the Hon'ble High Court by way of a Writ Petition No.1139/2005, 1140/2005 and 2176/2005 which were

remanded to the Tribunal in orders dt. 14.7.2005 to decide the matters regarding those petitioners on their claims for regularisation afresh and these OAs were restored and heard and decided finally in OAs No.692 and 759 of 2003 on 30.3.2006 recording an order of dismissal both on the aspects of merit and on limitation. Meanwhile, another set of applicants led by OA No.442/2204, whose cases remained pending with this Tribunal, were heard finally by this Bench and orders pronounced on 9.6.2010 referring most of the cases to a High Power Committee of three senior officers to consider the evidence submitted by the applicants and to take a decision in regard to their regularisation and absorption. The respondents took this matter to the Hon'ble High Court in Writ Petition No.607/2011, it was dismissed reiterating the directions of this Tribunal for consideration of the said applicants by a High Power Committee to be formed by the respondents. One of the applicants in OA No.860/2003, whose case had been dismissed on 25.12.2004 also approached the Hon'ble High Court in Writ Petition No.530/2006 which was remanded in orders dt. 9.3.2006 to the Tribunal to consider afresh and was also referred by this Tribunal in orders (supra) dt. 9.6.2010 to the High Power Committee to be formed by the respondents. Some of the applicants in OA No.759/2003

whose cases had been dismissed by this Tribunal in orders dt. 30.3.2006 (supra) after being remanded by the Hon'ble High Court and considered afresh, again approached this Tribunal in OA Nos.762-764 of 2011 and by virtue of their representations dt. 4.7.2011 before the respondents on which no response had been received, directions were given to the respondents in orders dt. 29.11.2011 to consider their representations in light of the orders of the Hon'ble High Court dt. 29.4.2011 and to pass suitable orders. The applicants have also relied on orders passed by this Tribunal at its Circuit Bench at Nagpur in OA Nos.2201, 2202, 2203, and 2206/2003 passed on 18.4.2006 in which the applicants whose names had been maintained in the Live Register of the Railways were referred back to the respondents for the special reasons and facts determined in relation to them in those proceedings.

4. In the present case, it is an admitted fact that the applicants never agitated their matters before the Hon'ble High Court and it is only after perhaps learning about and noticing the references made to a newly created High Power Committee as directed by this Tribunal and some successes in the case of some of those applicants that the present applicants had filed a representation with the respondents on 21.7.2011 seeking similar treatment and they have cited in support, the rulings of

the Hon'ble Apex Court in **K.C.Sharma & Ors. v. Union of India and Ors.**, AISLJ 1998(1) 54.

5. Learned counsel for parties have been heard at length on this issue. Pleadings have been carefully considered and the background of the matter has been studied.

6. As explained at the outset and by reference to the paragraphs of the orders passed in relation to the present applicants in the batch of OAs led by OA No.770/2003 decided on 25.12.2004, even at that time the present applicants were not borne on the Live Register or Supplementary Live Casual Labour Register and therefore, they neither had any claims nor any fresh cause of action to make such claims. Therefore, the impugned orders of the respondents dt. 25.11.2011 stating that the decisions of this Tribunal and of the Hon'ble High Court of Bombay in the cases considered by the High Power Committee were strictly in relation to those cases and cannot become a fresh cause of action, since the basic claim rests on evidence of being on the Live Register and in the case of the applicants, this Tribunal has already specifically held that there was no evidence that

they were on the Live Register or the Supplementary Live Register. Once this Tribunal has taken such a view, and passed final orders in this matter even eight years prior to the filing of this new OA, this Tribunal becomes functus officio in the fresh attempts being made by the applicants to retrace the evidence on their claims and the legal paths that they had adopted in the previous round and which resulted in failure before this Tribunal.

7. In the circumstances, these OAs are without basis in law and are, accordingly dismissed. In the circumstances of the applicants, there shall be no order as to costs.

(RAVINDER KĀUR)
MEMBER (J)

(R.VIJAYKUMAR)
MEMBER (A)

B.

SD
5/8/12