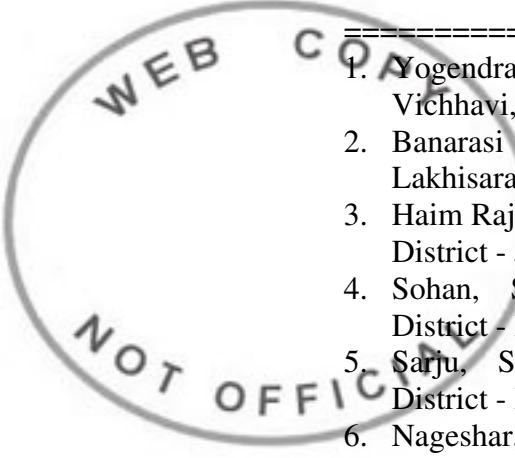
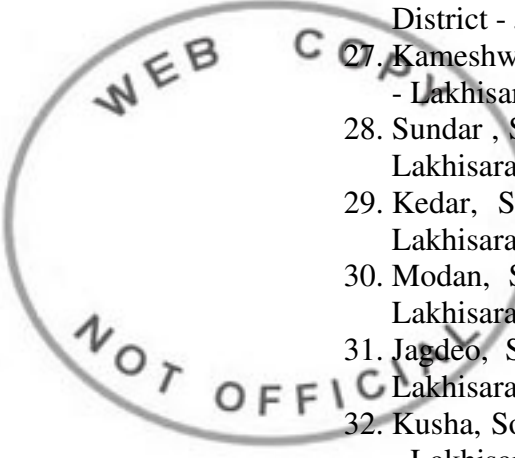


IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5355 of 2014

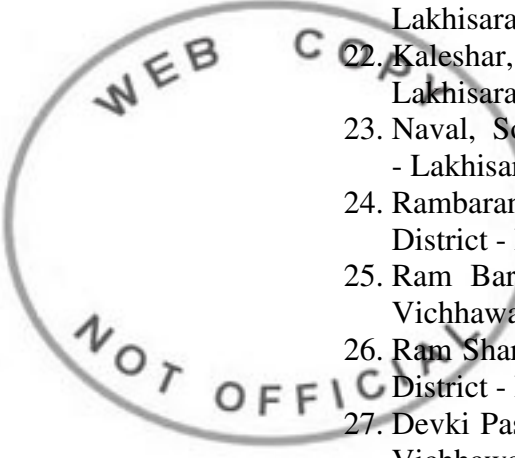
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1. Yogendra, Son of Sri Sunder, Resident of village - Mahesh Laita, P.O. Vichhavi, District - Lakhisarai, Munger
 2. Banarasi Son of Sri Lutan Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger
 3. Haim Raj Son of Sri Chetan Resident of village - Harana, P.O. Rajala, Oaraiya, District - Jamui, Munger
 4. Sohan, Son of Heman, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 5. Sarju, Son of Ram Kishun, Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger
 6. Nageshar, Son of Shiv, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 7. Battan, Son of Prabhu, Resident of village - P.O. Rajala Auraiya, District - Jamui, Munger
 8. Brahmdev, Son of Tikkam, Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger
 9. Jahuri, Son of Lochan, Resident of village + P.O. Sahur, District - Lakhisarai Munger
 10. Rambalak, Son of Bambam, Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger
 11. Ganga, Son of Ramnbhajju, Resident of village - Mahuliya, Ps - Sangrampur, District - Lakhisarai (Munger)
 12. Halkeshar, Son of Prasadi , Resident of village - Mahuliya, Ps - Sangrampur, District - Lakhisarai (Munger)
 13. Gainu, Son of Phatuli, Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger
 14. Rajendra, Son of Lutan, Resident of village and P.O. Sangrampur, District - Lakhisarai, Munger
 15. Arjun , Son of Panchu, Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, (Munger)
 16. Chandrika , Son of Chotan Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, (Munger)
 17. Dev Nandan, Son of Chotan, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 18. Sushil Kumar Paswan, Son of Haiman Ram, Resident of village - Haila Joat, P.O. Jhajha, District - Jamui (Munger)
 19. Huso, Son of Jago, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 20. Sindheshar, Son of Darshan, Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, (Munger)
 21. Bhola, Son of Batoran, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 22. Jhuna, Son of Gajo, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 23. Rajo Paswan, Son of Sarjug Paswan, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 24. Arjun – 1, Son of Panchu , Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger

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25. Siyacharan, Son of Rambhajju, Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger
 26. Lakshmi, Son of Masudan, Resident of village - Dhapari, P.O. Baragor, District - Jamui, Munger
 27. Kameshwar, Son of Aaku, Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, Munger
 28. Sundar, Son of Phalhari, Resident of village - Mohanpur, P.O. Sahur, District - Lakhisarai, Munger
 29. Kedar, Son of Phalhari, Resident of village - Mohanpur, P.O. Sahur, District - Lakhisarai, Munger
 30. Modan, Son of Phalhari, Resident of village - Mohanpur, P.O. Sahur, District - Lakhisarai, Munger
 31. Jagdeo, Son of Rameshar, Resident of village Basmatiya, P.O. Sahur, District - Lakhisarai, (Munger)
 32. Kusha, Son of Rameshwar Resident of village - Basmatia, P.O. Sahur, District - Lakhisarai, (Munger)
 33. Chandradeo, Son of Tota, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, (Munger)

.... Petitioner/s

Versus

1. The Union of India through The Secretary, Railway Board, Rail Bhawan, New Delhi
2. The General Manager, East Central Railway, Hajipur
3. The General Manager (Personnel), EC Railway, Hajipur
4. The Divisional Railway Manager, EC Railway, Danapur Null Null
5. The Divisional Railway Manager (P), EC Railway, Danapur
6. The Divisional Personnel Officer, EC Railway, Danapur
7. The Senior Divisional Manager, EC Railway, Danapur
8. The Permanent Way Inspector, EC Railway, Jhajha
9. Lakan, Son of Sri Chandi, Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
10. Bindeshvari, Son of Sri Indradev, Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
11. Kapil Dev, Son of Sri Ghamandi, Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
12. Bhagwat, Son of Sri Dashrath, Resident of village + P.O. Khagaul, (Kiual), District - Lakhisarai, Munger
13. Subailal, Son of Sri Phaudi Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger
14. Kamleshari, Son of Dhaneshar Resident of village + P.O. Sangrampur, District - Lakhisarai, Munger
15. Ramdev, Son of Chetan Resident of village + P.O. Sangrampur, District - Lakhisarai, Munger
16. Shivnandan, Son of Baijnath, Resident of village + P.O. Sangrampur, District - Lakhisarai, Munger
17. Shankar, Son of Sarju Resident of village + P.O. Sahur, District - Lakhisarai Munger
18. Kamleshari, Son of Lakshman, Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger
19. Ram Nandan, Son of Rameshwar Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger

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20. Raj Kumar, Son of Ganesh Resident of village - Basmatiya, P.O. Sahur, District - Lakhisarai, Munger
 21. Karu, Son of Baiju Resident of village - Mohanpur, P.O. Sahur, District - Lakhisarai, Munger
 22. Kaleshar, Son of Babanu Resident of village - Ithari, P.O. Sahur, District - Lakhisarai, Munger
 23. Naval, Son of Mahavir Resident of village - Damdampur, P.O. Bilauri, District - Lakhisarai, Munger
 24. Rambaran – I, Son of Kalam, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 25. Ram Baran – II, Son of Chotan Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 26. Ram Sharan, Son of Sukar Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 27. Devki Paswan, Son of Sarjug Paswan, Resident of village - Lakhochak, P.O. Vichhaway, District - Lakhisarai, Munger
 28. Khiru, Son of Govind Resident of village - Mahuliya, Ps - Sangrampur, District - Lakhisarai, Munger
 29. Chhunu, Son of Jago Resident of village - Kundar, P.O. Gopalpur, District - Lakhisarai, Munger
 30. Naresh, Son of Basant Resident of village Ghoshi Kundi, P.O. Pancham, District - Lakhisarai, Munger
 31. Thakuri, Son of Mangal Resident of village + P.O. Gopalpur, District - Lakhisarai, Munger
 32. Nageshwar, Son of Bodhi Resident of village - Sair, P.O. Chacha, District - Lakhisarai, Munger
 33. Kaleshar, Son of Umrao Resident of village - Harana, P.O. Rajala, Auraiya (Jhajha) District - Jamui, Munger
 34. Basdev, Son of Kishun Resident of village + P.O. Rajla Auraiya (Jhajha), District - Lakhisarai, Munger
 35. Bhuneshar (i), Son of Amrit Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
 36. Lakhan Son of Mangal Resident of village + P.O. Sangrampur, District - Lakhisarai, Munger
 37. Phuleshar Son of Tipan, Resident of village + P.O. Rajla, District - Lakhisarai, Munger
 38. Ganesh, Son of Darbari Resident of village + P.O. Rajla Auraiya, District - Lakhisarai, Munger
 39. Jogi, Son of Tipan Resident of village + P.O. Rajla Auraiya, District - Lakhisarai, Munger
 40. Doman, Son of Dhano Resident of village - Kumhaini, P.O. Rajala Auraiya, District - Jamui, Munger
 41. Ishwar, Son of Shivdhari, Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
 42. Janardhan, Son of Moti Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
 43. Balmiki, Son of Sitaram, Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
 44. Cheddi, Son of Gopi Resident of village - Churaman Bigha, P.O. Gopalpur, District - Lakhisarai, Munger
 45. Janki, Son of Tulsi Resident of village - Sewa, P.O. Giddaur, District - Lakhisarai, Munger

46. Arjun II, Son of Payarai Resident of village - Ray Kundi, P.O. Pancham, District - Jamui Munger
47. Mahesh, Son of Raghu Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
48. Guru Charan, Son of Bedami, Resident of village - Kundar, P.O. Gopalpur, District - Lakhisarai, Munger
49. Manik Chand, Son of Tilak, Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
50. Cheman, Son of Prabhu Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
51. Ramdhari, Son of Bal Kishun Resident of village - Ghor Paran, P.O. Lakshmipur, District - Jamaui, Munger
52. Khiru, Son of Parbhu, Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
53. Bhuneshar, Son of Parbhu, Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
54. Naurangi, Son of Brinda Resident of village - Sewa, P.O. Giddaur, District - Jamui, Munger
55. The OBC Railway Employees Association through Its Additional General Secretary, Shushil Prasad, Danapur, Hajipur E.C. Railway

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Bajrangi Lal, Advocate.
Mr. Ambika Bhagat, Advocate.
Mr. Santosh Kumar, Advocate.

For the Respondent/s : Mr. D.K.Sinha, AAG-2
Mr. Vijay Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 05-05-2016

Heard learned counsel for the parties.

2. The challenge in the present writ petition is to an order dated 10.05.2013 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the 'Tribunal') in O.A. No. 464 of 2008 whereby an Original Application filed by the petitioners was dismissed.



3. The petitioners have claimed in the Original Application that they were working as Casual Labourers in the erstwhile Eastern Railway, Danapur Division prior to 01.01.1981, but all the applicants were discharged for want of sanction of work. A number of representations were filed for their absorption, grant of temporary status and regularization in Group-D posts, but nothing was done.

4. It is pleaded that the respondents framed a scheme, in pursuance of the direction of the Hon'ble Supreme Court in the case of *Inder Pal Yadav vs. Union of India & Ors.* reported as *(1985) 2 SCC 648*. As per the scheme, the casual labourers, who were working prior to 01.01.1981 and continued to work till 1987, were required to be considered for absorption.

5. The grievance of the petitioners are that 419 casual labourers were considered for absorption without referring to Live Register prepared on the basis of screening test. The names of the petitioners did not form part in the list of 419 persons, who were absorbed by the Railways. The Railway Board had issued a circular for recruitment from open market in Group-D post on 17.01.2003. The challenge is to the said recruitment process initiated by the respondents. Reference is also made to Casual Live Register prepared for 2097 persons containing working days of each casual

labourer.

6. The Tribunal refers to another judgment in the case of ***Dakshin Railway Employees Units Trivendrum Division vs. General Managers, Southern Railway, Trivendrum*** reported as ***A.I.R. 1985 SC 1153*** wherein it was held that the persons who were retrenched before 01.01.1981 were called upon to submit their claims to the Administration before 31.03.1987. The Railway Administration was to consider the genuineness of the claim and process them accordingly. Thereafter, a circular was issued on 02.03.1987 notifying that the persons, who had worked as Project Casual Labourers before 01.01.1981 and were discharged for want of further work or due to completion of work, should submit documentary proof on or before 31.03.1987. In terms of the said circular, a list of 419 persons was prepared, who were absorbed. The Tribunal recorded the following finding:-

“The sole purpose of our discussion is to highlight the fact that if the applicants had submitted their representations prior to 31.03.1987 and had worked prior to 1981 what they were doing when in spite of the screening test conducted in 1990, when their cases were not considered for several years. They did not approach the Tribunal then even when several persons approached the Tribunal in 1988 in OA 96 and 97. The present applicants did not come before this Tribunal even after the order dated 22.09.2003 passed in OA 671 of 2002, when directions were given to the respondents to consider the case of the applicants who were over-looked. The present

applicants did not move before this Tribunal in 2003. Filing of the present OA in 2008, 2009 and 2011 is hopelessly barred by limitation. If the pleadings of the applicants are to be believed that they are poor agriculturists and living in their respective villages, for such inordinate delay, no laxity can be shown and they are to blame themselves for their laches. Theirs claims have become stale by efflux of time'

7. The Tribunal further found that the casual labourers have to show that they worked prior to 01.01.1981 and were retrenched and that they had applied prior to 31.03.1987. Since such tests are not satisfied, the Original Application filed by the petitioners was dismissed.

8. Before this Court, learned counsel for the petitioners referred to the averments made in the Original Application to contend that they were working prior to 01.01.1981, but the said fact alone is not sufficient for their absorption. The petitioners were required to apply before 31.03.1987 in terms of Railway Board's Circular dated 02.03.1987. Since, the petitioners have not applied for absorption they cannot be considered for absorption and those, who applied, were included in the list of 419 persons, stand absorbed and regularized.

9. At this stage, we may notice that a similar controversy arose in C.W.J.C. No. 9500 of 2014 (***Ram Sanjivan Roy & Ors. Vs The Union of India & Ors.***) decided on 26.04.2016,

wherein, after considering the Supreme Court order in *Inder Pal Yadav* (supra), it was found that the scheme is meant for casual labourers who were working prior to 01.01.1981 and are working till the year 1987 alone are entitled to absorption.

10. In view thereof, we do not find any error in the order passed by the Tribunal which may warrant interference in the present writ petition. It is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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