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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1227/97

New Delhi this the 16th day of December, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)-

1. Indian Railway Parcel and
other Porters' Unions through
its Secretary,
Rudra Pratap Singh,
S/o Sh. Vishwanath Singh,
Northern Railway, Kanpur
Central Station, Kanpur(UP).
2. Sh. Radhey Sham,
S/o Sh. Ram Dev,
C/o Parcel Office,
Railway Station,
Northern Railway, Mirzapur(UP).
3. Sh. Inder Paul Singh,
S/o Sh. Ram Charan Singh,
C/o Parcel Office,
Northern Railway,
Char Bagh Railway Station,
Lucknow(UP).

..... Applicants

(through Sh. D.K. Garg, advocate)

versus

1. Union of India,
through its Chairman,
Railway Board,
Rail Bhawan,
New Delhi.
2. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.
3. The Divl. Railway Manager,
Northern Railway Divl. Office,
Civil Lines,
Allahabad, UP.
4. The Divl. Railway Manager,
Northern Railway Divl. Office,
Hazaratganj, Lucknow, UP.
5. The Divl. Railway Manager,
Northern Railway Divl. Office,
Moradabad, UP.

6. Ms/ Janta Labour Cooperative
Society Ltd., Kanpur, UP
Parcel Handling Contractor,
Northern Railway,
R.S. Kanpur, Central U.P. Respondents
(through Sh. P.S. Mahendru, advocate).

ORDER(ORAL)

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

This application has been filed on behalf of the applicants including the Indian Railway Parcel and other Porters Unions through its Secretary praying for relief of restraining the respondents from doing away with the services of the applicants as well as a direction to conduct an enquiry through senior officers of the Railways to ascertain as to whether the applicants have been working continuously as has been mentioned by the applicants in Annexure 'A' to the application. The applicants are seeking similar direction as has been given by the Hon'ble Supreme Court to their colleagues who have been similarly situated and the relevant judgements of the Hon'ble Supreme Court pertaining to those have been annexed as copies to the application itself. The learned counsel for the applicants at the out set of the case relied upon the decision of the Hon'ble Supreme Court in Writ Petition No.277/88 decided on 15.4.91 wherein based on the report of the Labour Commissioner U.P. who had submitted a report in pursuance of an order to that effect by the Hon'ble Supreme Court itself, proceeded to pass orders directing the respondents to treat the applicants therein as regular Parcel Porters w.e.f. 15.4.91. The directions contained in the judgement are reproduced here below:-

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"In view of the Labour Commissioner's findings, we allow the petition and direct the respondent Railway Administration to treat the petitioners as regular parcel porters, w.e.f. 15.4.91 and to grant them the same salary which is being paid to regular parcel porters. There will be no order as to costs."

2. Subsequently, the National Federation of Railway Porters, Vendors & Bearers approached the Hon'ble Supreme Court again by way of Writ Petition (Civil) No. 507 of 1992 and others and the same came up for hearing finally and the judgement was given on 9.5.95. The Hon'ble Supreme Court based on a three Judge Bench decision of the same court vide R.K. Panda & Ors. Vs. State Authority of India and Ors. (JT 1994(4) SC 151), proceeded to issue several directions. It is pertinent to mention that directions were issued and the same are reproduced as there was already a report of the Labour Commissioner UP available with the Court at the relevant time:-

"(i) That the Unit of the Railway Administration having control over the Railway Stations where the petitioners in the present writ petitions are doing the work of Railway Parcel Porters on contract labour should be absorbed permanently as regular Railway Parcel Porters of those Stations, the number to be so appointed limited to the quantum of work which may become available to them on a perennial basis. /

(ii) When the petitioners in the writ petitions or any of them are appointed as Railway Parcel Porters on permanent basis, they shall be entitled to get from the dates of their absorption the minimum scale of pay or wages and other service benefits which the regularly appointed Railway Parcel Porters are already getting.

(iii) The Unit of Railway Administration may absorb on permanent basis only such of those Railway Parcel Porters

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(petitioners) working in the concerned Railway Stations on contract labour who have not completed the superannuation age of 58 years.

- (iv) The Units of Railway Administration are not required to absorb on permanent basis such of the contract labour Railway Parcel Porters (Petitioners) who are not found medically fit for such employment.
- (v) That the absorption of the petitioners in the writ petitions on a regular and permanent basis by the Railway Administration as Railway Parcel Porters does not disable the Railway Administration from utilising their services for any other manual work of the Railways depending upon its needs.
- (vi) In the matter of absorption of Railway Parcel Porters on contract labour as permanent and regular Railway Parcel Porters, the persons who have worked for longer periods as contract labour shall be preferred to those who are put in shorter period of work.
- (vii) The report dated August 31, 1993 of the Assistant Labour Commissioner (Central) can be made the basis in deciding period of contract labour work done by them in the Railway Stations. Further, as far as possible, the Railway Stations where the writ petitioners are working should be the places where they could be absorbed on permanent and regular basis and the information available in this regard in the report dated August 31, 1993 of the Assistant Labour Commissioner, could be utilised for the purpose. On the basis of the said decision, various other writ petitions have also been disposed of by the Hon'ble Supreme Court itself. One such petition is available at page-52 of the paperbook vide Writ Petition (Civil) No. 568/95 in the matter of National Federation of Railway P.P. Union & Ors. Vs. U.O.I. & Ors. decided on 5.2.96. In the said decision, the Hon'ble Supreme Court has reiterated what has been already held in the case of National Federation of Railway Porters, Vendors and Bearers Vs. U.O.I. & Ors. reported in JT 1995(4) SC 568 and reiterated directions given therein and made the said directions applicable to the applicants now before the Hon'ble Supreme Court in the said case. Subsequently, vide such matter happened to be filled in this Tribunal, this Tribunal in its wisdom decided to dismiss the same and an appeal was filed in the Hon'ble Supreme Court (No. 6953/97).

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The Hon'ble Supreme Court by judgement dated 1.10.97 in the matter of Rshtriya Chaturth Shreni Railway Majdoor Congress Vs. U.O.I. & Ors. considered the entire case in the light of the previous decision as referred to herein above and was pleased to remand the matter back to this Tribunal. The said case is reported in AIR 1997 SC 3492.

(viii) The absorption and regularisation of the petitioners in the writ petitions, who could be appointed as permanent Railway Parcel Porters shall be done according to the terms indicated above and on such other terms to which they may be subjected to according to the rules or circulars of the Railway Board as expeditiously as possible, not being later than six months from today, whose who have put in longer periods of work as Railway Parcel Porters on contract labour getting preference in the matter of earlier appointment."

3. After notice, the respondents have filed their reply and it is stated that the reply in one of the writ petitions filed by some similarly placed applicants happened to be dismissed by the Hon'ble Supreme Court and a review application filed by the applicants themselves is stated to be pending before the Hon'ble Supreme Court. Vide para 1.8 of the reply, the review application bearing No.2009/96 is stated to have been filed in Civil Writ Petition No.176/96. On behalf of the applicants a statement was made at the Bar that the said writ was initially dismissed but subsequently it was allowed by an order in the review application and no such petition is at present pending with the Hon'ble Supreme Court.

4. It was also stated by the respondents that in most of those cases decided by the Hon'ble Supreme Court, the applicants have been engaged by one or other contractor and the applicants were contract

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labourers under some appointed contractors at the instance of the Railways in accordance with the rules then prevalent. It was stated by the learned counsel for the respondents that the present case is slightly different from the above said cases for the reason that the applicants herein are working and the relief already granted to the other contract labourers may not be available to them as well. We have perused the said contention stated in the reply itself. We have also seen that the decisions cited herein above refer to the contract labourers working under certain contractors and in the present case may be the contractor is a Cooperative Society and that alone will not change the circumstance of the contract labourer working in the said cooperative society. In both the cases looking upon the circumstances of the applicants, they remained to be contract labourers for the purpose of this application.

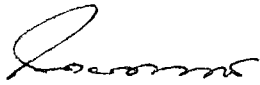
6. In the circumstances, we do not hesitate to reiterate the directions given by the Hon'ble Supreme Court in the two previous decisions cited above and we declare that the said directions will also be applicable to the case at hand on a mutatis mutandis basis.

7. Since in some of the cases decided by the Hon'ble Supreme Court, there was already an enquiry report conducted at the instance of the Labour Commissioner UP, Kanpur available on record, we also find that before complying with the said 8 directions given by the Hon'ble Supreme Court, the respondents

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Railways may approach the Labour Commissioner UP at Kanpur for conducting an enquiry in the same manner as has been done at the instance of the Hon'ble Supreme Court and in the interest of the working class. The respondents are directed to get the report within a reasonable span of time say within 6 months. Thereafter the directions given by the Hon'ble Supreme Court reproduced herein above will be applicable in the case of the applicants herein as well.

8. Before parting with the case, we are reminded of the concession granted by the learned counsel for the applicants in the case of National Federation of Railway Porters, Vendors & Bearers Vs. U.O.I. & Ors. at para-6. We confine this application to the similar relief that has been granted by the Hon'ble Supreme Court only. With this, this O.A. is allowed to the extent as referred to above. No costs.


(S.P. Biswas)
Member (A)


(Dr. Jose P. Verghese)
Vice-Chairman (J)