

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 343 of 1997

New Delhi, this the 23rd day of February, 1998

Hon'ble Mr. N. Sahu, Member(A)

1. Niranjan
S/o Sh. Khaniya Lal
2. Dharambir
S/o Sh. Kishan Lal
3. Lakhan Lal
S/o Sh. Keshu Ram
4. Ramanand Samariya
S/o Sh. Umrao
5. Ramesh Kumar
S/o Sh. Bhagwan Dass
6. Babu Lal
S/o Sh. Kalu Ram
7. Santosh
S/o Sh. Kishan
8. Kallu Khan
S/o Sh. Abraham
9. Suresh Kumar
S/o Sh. Sita Ram
10. Sheo Raj
S/o Sh. Banwari Lal
11. Birender Singh
S/o Sh. Bishamber Dayal
12. Nank Chand
S/o Sh. Shadu Ram
13. Rajinder Kumar
S/o Sh. Anandi
14. Opinder Kumar
S/o Sh. Shiv Pd. Manda
15. Rajesh Kumar
S/o Sh. Dasrath
16. Dalip Kumar
S/o Sh. Sarju Ram
17. Panch Lal
S/o Sh. Jamadi Manda
18. Opinder Kumar
S/o Sh. Sarju Ram
19. Sunil Kumar Manda
S/o Sh. Sita Ram Manda

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20. Sarwan Kumar
S/o Sh. Anandi Mandal

21. Amit Kumar
S/o Sh. Madan Kumar

22. Gajraj Singh
S/o Sh. Hira Lal

23. Manoj Kumar
S/o Sh. Bishan Dev

24. Umesh Bhagat
S/o Sh. Sat Narain Bhagat

25. Krishan Kumar
S/o Sh. Rajinder Singh

26. Rajinder Kumar
S/o Sh. Keshu Ram

...Applicants

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All are working as Parcel Porter
under Parcel Officer, Northern Rly.
Rewari(Har) in Bikaner Division.

(By Advocate : Sh. Yogesh Sharma, proxy
for Sh. V.P. Sharma)

Versus

Union of India: through

1. The General Manager
Northern Railway
Baroda House, New Delhi

2. The Secretary
Railway Board
Rail Bhawan, New Delhi

3. The General Manager
Northern Railway
Baroda House, New Delhi

4. The Divisional Rly. Manager
Northern Railway
Bikaner (Raj.)

...Respondents

(By Advocate : Sh. P.S. Mahendru)

ORDER

By Sh. N. Sahu, Member(A)

In this Application, 26 applicants have joined together seeking a direction to the respondents to consider their cases for absorption as Railway Parcel Porters on regular basis in the light of the

Replies

decision of the Hon'ble Supreme Court dated 09.05.1995 and 08.07.1996. A chart is filed showing the dates from which these applicants were appointed. In some cases the appointments as Parcel Porters were as early as January 1991 and in others it is as late as June 1995. The applicants submit that their claims were earlier considered by the Hon'ble Supreme Court. The Apex Court issued directions for their permanent absorption as Railway Parcel Porters on a regular basis. The Hon'ble Supreme Court laid-down several conditions before they can be considered for absorption. These are to be found in the orders of the Supreme Court in Writ Petition 277/98 and the same is reiterated in National Federation's case pronounced on 08.07.1996 in Writ Petition Nos.568 and 711 of 1995. Learned counsel for the applicant submits that their engagement as Parcel Porters on contract basis is evidenced by the identity cards issued by the Station Superintendent in their cases.

2. In spite of several opportunities, counter has not been filed and by an order dated 19.01.1998 a final opportunity was given even so the counter has not been filed.

3. I have heard the learned counsel for the respondents and perused the pleadings on record. Sh.P.S. Mahendru, counsel for respondents makes the submission that the applicants are working at Rewari in Bikaner Division. They are not justified in seeking a direction a direction to Respondent No.2 and 3. The second point made by the counsel is that they

have not convinced the court that they are similarly placed as the Parcel Porters in the Supreme Court decisions. The averments are incomplete in the sense that the Contractor who appointed them has not been mentioned.

(5)

4. Learned counsel for the applicant in reply states that it is only Respondent No.2 and 3 who are competent to issue orders to the applicants on the basis of the Supreme Court decision. Respondent No.4 is not competent to enforce the orders. The appointment is only by one Contractor who was authorised for this purpose by the station authorities at Rewari, Haryana in Bikaner Division. They admit that they are on contract labour working at the Parcel Office. It is also submitted that the Principal Bench in OA No.662 of 1997 and OA No.1227 of 1997 reiterated the directions given by the Hon'ble Supreme Court and declare that these directions will also be applicable to the case in hand on a mutatis mutandis basis. It is quite likely that in the cases decided earlier the Porters may be working under different contractors and in the present case the Contractor may be a co-operative society. That alone will not change enforceability of the Supreme Court decision to the applicants' cases. I would unhesitatingly hold that the case before me is fully covered by the decision of the Supreme Court as well as by the orders of the Division Bench passed in a number of other cases.

Ambrish

5. The applicants are similarly placed as those who have received the reliefs in the hands of the Division Bench as well as in the hands of Supreme Court. A number of conditions have been laid-down by the Apex Court. The most important point is to be found in National Federations' case (supra) wherein the Chief Marketing Manager's to the Apex Court states as under:

(b)

"(i) In order to comply with the Hon'ble Supreme Court's Judgement that the Railway should absorb persons supplied by the societies to work as labourers for parcel handling, to the extent that posts which are of perennial and permanent nature can be justified, and to absorb persons as per their length of working as such parcel handling labour, it is recommended that Lucknow; Allahabad, Bikaner and Jodhpur divisions should be asked to fall in line with the section taken at Moradabad Division i.e. to:

(a) Conduct a work study at all the stations where such parcel handling is still being done by such labour and arrive at the number of posts required on a permanent and perennial basis, and

(b) Screen all such eligible labourers as per the guidelines of Hon'ble Supreme Court and as per the Railway rules and absorb them to the extent that posts are justified.

(ii) The case one person who is working at Lucknow Jn. of N.E. Rly. made be referred to General Manager/N.E. Rly., for necessary action."

Para 6 of the order in National Federation's case, W.P. No. 507 of 1992 decided on 09.05.1995 issued eight directions: /

"(1) 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 being limited to the quantum of work which may become available to them on a perennial basis.

(2) 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 date of their absorption the minimum scale of pay or wages and other service benefits which the regularly appointed Railway Parcel Porters are already getting.

(3) The Units of Railway Administration may absorb on permanent basis only such of those Railway Parcel Porters (petitioners) working in the concerned Railway Stations on contract labour who have not completed the superannuation age of 58 years.

(4) 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.

(5) 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 Railway depending upon its needs.

(6) 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.

(7) 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.

(8) 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 circular of the Railway Board as expeditiously as possible, not being later than six months from today, those who have put in long periods of work as Railway Parcel Porters on contract labour getting preference in the matter of earlier appointment."

(S)

6. I would, therefore, direct that Respondent No.2 and 3 to consider the cases of the applicants in the light of the directions of the Supreme Court and subject to the fulfillment of all conditionalities dispose of their claim for absorption within a period of six months from the date of receipt of a copy of this order.

7. OA is disposed of as above. No costs.

N. Sahu

(N. Sahu)
Member(A)

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/Kant/