In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. Nos.: Date: 4.5.1990.

1. CCP- 158/89 In OA-1011/87
2. CCP- 168/89 In OA-1411/89
3. CCP- 169/89 In OA- 590/89
4. CCP- 170/89 In OA- 398/87
5. CCP- 171/89 In OA-1325/87
6. CCP- 172/89 In OA- 193/87
7. CCP- 173/89 In OA-1341/87
8. CCP- 174/89 In OA-1101/87
9. CCP- 175/89 In OA- 859/87
10. CCP- 176/89 In OA- 603/87
11. CCP- 177/89 In OA-1855/87
12. CCP- 197/89 In OA-1418/87
13. CCP- 203/89 In OA-1470/87
14. CCP- 205/89 In OA-1171/87
15. CCP- 218/89 In OA-1513/87

1. Shri Shivaji Mishra & 11 Others
2. Shri Vipin Behari Lal & Others
3. Shri Sushil Kumar Srivastava
4. Shri Suresh Kumar
5. Shri D. Thangavelu & Others
6. Shri Devender Kumar
7. Shri Ravinder Singh & Others
8. Shri Mahesh Kumar Singh & Others
9. Shri Abhai Kumar Sinha
10. Kumari Saroj & Others
11. Shri Dhirender Mohan Garg
12. Shri Tripurari Jha
13. Shri Rajesh Sharma
14. Shri Vinod Kumar Sharma
15. Shri Sandeep Kumar Sharma

) Petitioners

Versus

Secretary, Ministry of Railways and Others .... Respondents

For the Petitioners .... Shri Anis Suhrawardy, Counsel for Petitioner No.1

Shri B.S. Mainee, Counsel for Petitioner Nos.2-15.

For the Respondents .... Smt. Shashi Kiran, Counsel for Respondents 1,2,7,11 and 13.

Shri Jagjit Singh, Counsel for Respondents 3,4,6,8,9, 10,12,14 and 15.

Shri O.N. Moolri, Counsel for Respondent No.5.

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CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the judgement? yes

2. To be referred to the Reporter or not? No

(Judgement of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice-Chairman)

These petitions have been filed by the petitioners on the ground that the respondents have not complied with the directions contained in the Tribunal's judgement dated 23.5.1989 in a batch of cases dealing with the termination of services of the Mobile Booking Clerks (Miss Usha Kumari Anand & Others Vs. Union of India).

2. In para.37 of the Tribunal's judgement dated 23.5.1989, it was observed that all the applicants had been engaged as Mobile Booking Clerks before 17.11.1986 and that in the interest of justice, they deserved to be reinstated in service. Those who have put in continuous service of more than 120 days, would be entitled to temporary status, with all the attendant benefits. They were to be considered for regularisation and permanent absorption in accordance with the provisions of the Scheme laid down by the respondents. In view of this, the respondents were directed as follows:-

(i) To reinstate the applicants to the posts of Mobile Booking Clerk from the respective dates on which their services were terminated and to consider them for regularisation and absorption after verification of their qualifications for the same. If any person had become over age in the meanwhile, the respondents were directed to relax the age limit.

(ii) After reinstatement, the respondents were directed

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to confer temporary status on the applicants in the OAs mentioned in para.38(ii) of the judgement, if, on verification of their records it was found that they had put in four months of continuous service as Mobile Booking Clerks and treat them as temporary employees. They will also be entitled to regularisation under the Scheme.

3. The Tribunal had fixed a time-limit of three months for implementation of the judgement insofar as the reinstatement of the applicants were concerned. With regard to the other directions, no specific time-limit was laid down therein.

4. The time-limit stipulated in the judgement expired on 23.8.1989. The respondents did not produce any stay order issued by the Supreme Court staying the operation of our judgement. In some of these cases, the respondents had filed Special Leave Petitions in the Supreme Court, but no stay had been granted by the Supreme Court. We have been told during the hearing of the case that the SLPs filed in the Supreme Court were dismissed in November, 1989. The respondents did not implement the judgement until these petitions had been filed in the Tribunal and orders had been passed again calling upon them to comply with the directions contained in the judgement. In some of these petitions, we had passed orders to the effect that the petitioners would be entitled to salary and allowances from 23.8.1989 till the judgement is fully complied with. In some others, no such order was specifically made while in yet some others, it had been observed that the petitioners would be entitled for salary from 15.11.1989, the date when the Supreme Court

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had dismissed the SLPs. Taking a total view of all these applications, including the fact that the applicants belong to the lower strata of society who had to undergo hardship during the period when they were out of employment, we are of the opinion that all the petitioner would be entitled to salary and allowances from 23.8.1989, i.e., after the expiry of three months stipulated in the judgement.

5. At the time of hearing, the learned counsel for the petitioners stated that all the petitioners have been reinstated in service. To that extent, the judgement of the Tribunal has been complied with. The remaining grievances which were highlighted by Shri Anis Suhrawardy and Shri B.S. Mainee were that the petitioners are being paid only Rs.2/- per hour, amounting to Rs.18/- per day, while even illiterate workers employed as daily-wagers get Rs.27/- per day. Secondly, temporary status has not been conferred on the petitioners, as directed in the judgement. Thirdly, they have not been paid the arrears w.e.f. 23.8.1989. Smt. Shashi Kiran, learned Counsel for the respondents in some of these cases, stated that the petitioners were getting only Rs.2/- per hour when their services had been terminated, that orders regarding conferment of temporary status and regularisation will be issued after verifying the service particulars of the petitioners, and that the arrears will also be paid expeditiously. Shri Jagjit Singh and Shri O.N. Moolri, Counsel for the respondents in the remaining cases stated that payment of arrears has already been made to many of them.

6. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. While we have to take note of the magnitude of the task before the respondents in view of the large number

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of persons involved, we do not see any justification for not complying with the judgement of the Tribunal dated 23.5.1989, in letter and spirit. The respondents were well within their rights to move the Supreme Court with SLPs which they did. At the same time, the mere fact that they chose to file SLPs, did not justify non-implementation of our judgement. As the petitioners have been reinstated in service, the respondents have substantially complied with the judgement and we do not consider it appropriate to keep these petitions alive. In the conspectus of the facts and circumstances of the cases, we dispose of these petitions with the following directions to the respondents:-

(i) The respondents shall verify whether all the applicants in these cases have been reinstated as Mobile Booking Clerks and if any one has been left out, they should also be appointed forthwith.

(ii) The respondents shall complete task of verification of the service particulars of all the petitioners and confer temporary status on those who have put in 4 months of continuous service as Mobile Booking Clerks as expeditiously as possible but in no event, later than four months from the date of communication of this order. We, however, make it clear that the fact that the Tribunal directed payment of salary and allowances to the petitioners for the period from 23.8.1989, will not entitle them to count that period for reckoning the period of four months of continuous service.

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(iii) The respondants shall pay to the petitioners arrears of pay and allowances for the period from 23.8.1989 till their reinstatement in all these cases. Those who have not been so paid, shall be paid as expeditiously as possible, but in no event, later than four months from the communication of this order.

(iv) Those who have been found to have acquired temporary status after verification of the records, would be entitled to all the benefits to which Railway employees acquiring temporary status are entitled to under the Indian Railway Establishment Manual and other relevant orders and instructions issued by the respondents.

(v) The regularisation and absorption of the petitioners should also be completed expeditiously as and when they fulfil the conditions prescribed for the same. The service already put in before they were terminated would also count for the purpose of regularisation and absorption.

7. The CCPs are disposed of with the above observations and directions. The notices of contempt are discharged. The parties will bear their own costs.

8. Let a copy of this order be placed in all the 15 case files mentioned above.

(D.K. Chakravorty)
Administrative Member
4/5/1990

4/5/90
(P.K. Kartha)
Vice-Chairman(Judl.)