

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 1087/2004

New Delhi, this the 16th day of November, 2005

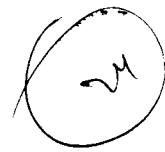
Hon'ble Mr. Shanker Raju, Member (J)

1. National Federation of Railway Porters, Vendors and Bearers (Registered), Through Ruder Partap Singh, Joint Secretary, 7, Jantar Mantar Road, New Delhi-1.
2. Chhagan Lal S/o S. Tulsi Ram, Working as Parcel Porter at W. Railway Station, Mhow, in Ratlam Division. -Applicant

(By Advocate Shri Yogesh Sharma)

- Versus -

1. Union of India through the Secretary, Ministry of Railway, Railway Bhawan, New Delhi.
2. The General Manager, North Western Railway, Jaipur.
3. The General Manager, Western Railway, Churchgate, Mumbai.
4. The General Manager, West Central Railway, Head Quarter Office, Jabalpur (MP).
5. The General Manager, North Eastern Railway, Gorakhpur (UP).
6. The General Manager, East Central Railway, Hajipur (Bihar).
7. The Divisional Railway Manager, North Western Railway, Mumbai Central (Maharashtra).
8. The Divisional Railway Manager, North Western Railway, Jodhpur (Raj)



9. The Divisional Railway Manager,
West Central Railway, Divisional Office,
Kota (Raj).
10. The Divisional Railway Manager,
North Eastern Railway,
Ashok Marg, Lucknow (UP).
11. The Divisional Railway Manager,
East Centre Railway,
Divisional Office,
Mugal Sarai (UP). -Respondents

(By Advocates Shri H.K. Gangwani, Shri Rajinder Khatter and
Shri Rishi Raj Sharma, proxy for Shri V.S.R. Krishna)

O R D E R (ORAL)

Applicants, National Federation of Railway Porters,
Vendors and Bearers and another, seek benefit of the
judgment of the Apex Court in **National Federation of
Railway Parcel Porters Union and others etc. v. Union
of India & Ors.**, 1995 (2) SLR 709, by claiming an
enquiry/verification through ALC, Allahabad ^(K) and consideration
for regularisation of the services of Parcel Porters.

2. Shri Yogesh Sharma, learned counsel of applicants
would contend that he is covered by a decision of the Apex
Court which is re-iterated in OA-1509/2000 in **Dharam Pal
& Ors. v. Union of India & Ors.** decided on 10.5.2005,
wherein directions have been issued to place case of
applicants therein before ALC, Allahabad ^(K) for verification and
thereafter for consideration for engagement and
regularisation.

3. The official respondents represented through Shri H.K.
Gangwani took a plea of limitation and jurisdiction on the
ground that applicants were working in Central Railways.

4. On the other hand, Shri Rishi Raj Sharma, proxy for Shri V.S.R. Krishna, counsel for respondents contended that this court has no jurisdiction to deal with the case.

5. Whereas Shri Rajinder Khatter, learned counsel appearing for respondents 5&11 contended that in few of the cases Parcel Porters were engaged and their case is referred to ALC, Allahabad ~~ALC, Lucknow~~ for verification.

6. On careful consideration of the rival contentions of the parties in **Dharam Pal's** case (supra) relying upon the decision of the Apex Court in **All India Railway Parcel & Goods Porters Union v. Union of India & Ors.**, 2003 (6) SCALE 774, directions have been issued to place the record before the ALC, Allahabad ~~ALC, Lucknow~~ and on verification and after arriving at genuineness and authenticity of the claim process of regularisation be completed. This Tribunal in **Dharam Pal's** case (supra) held as follows:

9. Parcel Porters are well covered by decision of the Apex Court in National Federation of Railway Parcel Porters Union and others etc. Vs. U.O.I. & Ors. (SLR 1995(2)709). Their guidelines have been issued to regularize their services which are reproduced as under:-

"(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 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.

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

10. If one has regard to the above, applicants, who have approached in OA-28/1998, which was disposed of on 15.2.1999 with a direction to consider the claim of the applicants.

11. Name of the applicants despite having sufficient service as Parcel Porters, their juniors had



been included in the list, which was objected to but the names of applicants were not included.

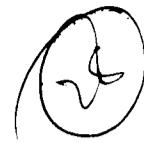
12. In the light of decision of the Apex Court in Railway Parcel Porters (supra) where the re-verification of the working has to be done by Assistant Labour Commissioner, I am of the considered view that applicants are, in all fours, covered by the ratio arrived at by the Apex Court, as they are identically situated. In this view of the matter, the objections raised by the respondents are misconceived and hereby over ruled.

13. In the result, respondents are directed to place the case of the applicants before Assistant Labour Commissioner for verification and subject to that their claim be further processed for screening and thereafter for engagement and regularisation, within three months from the date of receipt of a copy of this order. No costs."

7. If one has regard to the above being similarly circumstanced applicants cannot be deprived of the benefit which would not be in consonance with the decision of the Apex Court in a Constitutional Bench decision in **K.C. Sharma & Ors. v. Union of India & Ors.**, JT 1997 (7) SC 58.

8. As regards objection of limitation, a recurring cause of action of verification and regularisation makes it a continuing one and as such the limitation would not be attracted.

9. In so far as jurisdiction is concerned, in the light of the decision of the Apex Court that all the cases are to go before ALC, Allahabad (xx) ALC, Lucknow irrespective of whether they approach Principal Bench or other Benches would not be an impediment to extend the benefit to applicants being similarly circumstanced. However the cases of Parcel Porters which are referred to ALC, Lucknow and are engaged thereon, shall have to be segregated.



10. In the result, for the foregoing reasons, except the cases of Parcel Porters who had already been referred to ALC, Allahabad (xx) ALC, Lucknow and were engaged thereupon, in rest of the cases respondents are directed to forward the cases for authenticity and verification of their working to the ALC, Allahabad (xx) Lucknow in tune with the decision of the Apex Court in **Railway Parcel Porters Union's** case (supra) and thereafter to consider them for screening, engagement and regularisation, within a period of three months from the date of receipt of a copy of this order.

11. With these directions OA stands disposed of. No costs.

S. Raju
(Shanker Raju)
Member (J)

'San.'

*(xx) corrected as per orders of
 the Hon'ble Singh Bench in
 MA No 1202/2006 dated 23/8/2006
 in OA No 1087/2006.*

*J. Handhu, Deputy Registrar
 23/08/2006*