

(3)

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH,
ALLAHABAD

ORIGINAL APPLICATION NO.1136 OF 2005

ALLAHABAD THIS THE 23rd DAY OF SEPTEMBER, 2005

HON'BLE MR. K.B.S. RAJAN, MEMBER~

1. Lakhan Singh son of Shri Munshi Lal, R/o Village Sakatpur, Post Sahaie District Agra.
2. Satya Prakash son of Shri Jyoti Prasad R/o Village Sakatpur, Post Sahaie District Agra.
3. Raju Khan son of Shri Mahboob Ali R/o Village and Post Medhakur District Agra.
4. Jagdish Son of Shri Maghna Ram @ Mahabir Singh R/o Village Sakatpur, Post Sahaie District Agra.
5. Sobran Singh son of Sri Gangadhar Singh R/o Village Sakatpur, Post Sahaie District Agra.
6. Gulab Singh son of Mangal Singh.
7. Bachchu Singh (@Sachchu Singh) son of Shiv Ram Singh All R/o Village Sakatpur, Post Sahaie District Agra.
8. Puran Singh son of Sri Padam Singh R/o Village Milti, Post Roobbas District Bharatpur (Rajasthan).
9. Pappu Son of Sri Preetam Singh.
10. Shiv Singh son of Shri Preetam Singh.
11. Hannu Son of Manohar Singh.
12. Kailash Son of Shri Jyoti Prasad. All R/o Village Sakatpur, Post Sahaie District Agra.
13. Rambabu Son of Shiban Singh R/o Village and Post Medhakur District Agra.

(L)

14. Phool Singh son of Shri Mool Chand R/o Village and Post Sakatpur District Agra.
15. Shanlai Son of Shri Ninua Khan (@Ninuja Khan) R/o Village and Post Medhakur District Agra.
16. Hori Lal son of Shri Jhamman Lal R/o Village and Post Medhakur District Agra.
17. Naniga Ram son of Shri Ganga Ram R/o Village and Post Medhakur District Agra.
18. Geetam Singh son of Sri Ganga Ram R/o Village and Post Medhakur District Agra.
19. Hari Singh son of Shri Ganga Ram R/o Village and Post Medhakur District Agra.
20. Bachchu Singh son of Shri Kishan Singh R/o Village Garinarayan Singh Post Medhakur District Agra.
21. Har Bilas son of Shri Ganeshi Lal R/o 4/575 Prithvi Nath Phatak Shahganj District Agra.
22. Baney Singh son of Shri Ratan Singh R/o Village and post Kakua District Agra.
23. Kartar Singh son of Shri Manohar Lal R/o Village and Post Sakatpur Post Sahaie District Agra.
24. Jogendra Singh son of Shri Budha Ram R/o Village and Post Sakatpur, Post Sahaie District Agra.
25. Doji Ram Son of Shri Chibban R/o Village and Post Medhakur district Agra.
26. Rafiq son of Shri Washir Khan R/o Village and Post Medhakur District Agra.
27. Daroga Son of Shri Gangaram R/o Village Sakatpur and Post Sahaie District Agra.
28. K.S. Chauhan son of Shri B.S Chauhan R/o 25/162, Patel Nagar Jivani Mandi Agra.
29. Dhundi Ram son of Shri Gopi Ram R/o Village Sakatpur and Post Sahaie District Agra.

b/2

(S)

30. Siya Ram Son of Shri Prem Singh R/o Village and Post Medhakur District Agra.
31. Bhopendra Singh son of Shri Dhundi Ram R/o Village Sakatpur and Post Sahaie District Agra.
32. Ved Prakash son of Sri Karuwa Ram R/o Village Sakatpur and Post Sahaie District Agra.
33. Dinesh Son of Shri Naniga Ram R/o Village and Post Medhakur District Agra.
34. Naval Khan Son of Shri Buddhu Khan R/o 18/384 Mantola Nala Agra.
35. Balvir Singh Son of Shri Mangey Lal R/o Village Sakatpur and Post Sahaie District Agra.
36. Mehtab Son of Shri Moti Lal R/o Village Sakatpur and post Sahaie District Agra.
37. Maharam Singh son of Mangey Lal R/o Village Sakatpur and Post Sahaie District Agra.
38. Murari Lal son of Deoki Prasad Son of Village Sakatpur and Post Sahaie District Agra.
39. Member Singh son of Gangadhar R/o Village Sakatpur and Post Sahaie District Agra.
40. Sujaan Singh son of Shri Mangey Lal R/o Village Sakatpur and Post Sahaie District Agra.
41. Lal Singh son of Bahadur Singh R/o Village Sakatpur and Post Sahai District Agra.
42. Puran Singh son of Shri Hublal R/o Village Sakatpur and Post Sahaie District Agra.
43. Ratan Lal son of Sri Santosh Kumar R/o Village Medhakur and Post Medhakur District Agra.
44. Salim Khan son of Azeem Khan R/o Village Sakatpur and Post Sahaie District Agra.
45. Barkat Ali son of Nawab Khan R/o Village Medhakur and Post Medhakur District Agra.

6

(6)

46. Rahman Ali son of Mahboob Ali R/o Village
Medhakur and Post Medhakur District Agra.

47. Durabh Singh son of Shri Soran Singh R/o Village
Medhakur and Post Medhakur District Agra.

.....Applicants.

(By Advocate: Sri H.N. Tripathi/Sri S Singh/Sri S.K. Mishra)

VERSUS

1. Union of India through Chairman Railway Board, Rail Bhawan New Delhi.
2. Chairman, Railway Board, Rail Bhawan, New Delhi.
3. The Divisional Railway Manager, North Central Railway, Agra.
4. Station Superintending, North Central Railway, Agra Fort, Agra.

.....Respondents

ORDER (ORAL)

A comprehensive order was passed vide order dated 6.8.2004 in O.A. Nos.176/98 and 1361/95 whereby certain directions were given for ascertaining the true status of the applicants as to whether they were employed by contractors etc., and the verification was carried out as per the direction by the Labour Commissioner, who had, after making spot enquiry, rendered his report vide report dated 24.06.2005.

The applicants had made two representation to the respondents to take necessary action on the basis of the report and in the light of the judgments of the Apex Court in the case of National Federation of Railway Porters, Vendors and Bearers Vs. Union of India, 1995 Supp (3) SCC 152, and A.I. Raly, Parcel & Goods Porters' Union Vs. Union of

Gn

(7)

India (2003), 11 SCC 590. In the former judgment the Apex Court has held:

- (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 the 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 railway stations concerned 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 Porter (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 Railways 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 have put in shorter period of work.
- (7) The report dated 31.8.1993 of the Assistant Labour Commissioner (Central) can be made the basis in deciding the 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 31.8.1993 of the Assistant Labour Commissioner could be utilized for the purpose.
- (8) The absorption and regularization 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.

(6)

And in the latter case, the directions given by the Apex Court are as under:-

"All such porters/workers who may have been initially engaged through the cooperative societies but have been continuously working with the Railways for the last 10 years or more on different assignments shall be regularized and absorbed by the Railways' subject to being found medically fit and being below the age of superannuation (58 years)."

2. In fact the earlier order passed by the Tribunal on 6.8.2004 was to follow the procedure adopted in the former case and accordingly the Asstt. Labour Commissioner's report had been sought. What is left is, therefore, is action sequel to the report as contained in paras 7 and 8 of the judgment in the National Federation of Railway Porters Venders case.
3. As the case seems to be fully covered in the aforesaid case of National Federation of Railway Porters Vender case, ~~in the~~ the interest of justice ~~is~~ would be met if ~~the~~ direction is given to the respondents to consider the representation of the applicants taking into consideration the full Bench judgment in the case referred to above. This drill may be completed within 3 months from the date of communication of this order.
4. With the above direction, the O.A. is disposed of .
No costs.



Member-J

Manish/-