

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

....

Original Application No. 191 of 1993.

this the 19th day of April 2002.

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.  
HON'BLE MR. C.S. CHADHA, MEMBER (A)

1. Uma Shanker Pandey, S/o Sri Gabboo Pandey.
2. Ram Narain, S/o Sri Ayodhya Saran.
3. Manik Chandra, S/o Sri Shiv Raj Patel.
4. Baij Nath, S/o Sri Chabile Yadav.
5. Devi Shanker Pandey, S/o
6. Shyam Lal, S/o Sri Ram Phal.
7. Kesh Lal, S/o Sri Phal.
8. Nand Lal, S/o Sri Sudama.
9. Amar Singh, S/o Rama Nand Singh.

Applicants.

By Advocate : Sri A. Srivastava for Sri R.C. Sinha.

Versus.

1. Union of India through Divisional Railway Manager, Northern Railway, Allahabad.
2. Divisional Commercial Supdt., Northern Railway, Allahabad.
3. Station Supdt., Northern Railway, Allahabad.
4. The Chief Parcel Supervisor, Northern Railway, Allahabad.

Respondents.

By Advocate : Sri P. Mathur.

O R D E R (ORAL)

JUSTICE R.R.K. TRIVEDI, V.C.

This application under Section 19 of the A.T. Act 1985 has been filed by nine applicants. However, the counsel for the applicants has submitted that this application is pressed in respect of the applicant nos.



1,4 & 6. The applicants are railway porters and they claimed that they were serving in the capacity for the last several years. In para 4.2 of the O.A., details have been mentioned which shows that the applicant no. 1- Uma Shanker Pandey was engaged in the month of September '82, applicant no.4- Baij Nath was engaged in the year 1978 and the applicant no.6- Shyam Lal was engaged in the year 1972. Their claim is that they were engaged by the railways and they have continuously been working as railway porter, therefore, they are entitled for regularisation.

2. Counter reply has been filed and the claim of the applicants have been resisted on various grounds. It has been stated that there was no relation of master and servant between the applicants and the railway administration. It is further stated that they were engaged by the society and not by the railway administration. It is also stated that the claim of the applicants is time barred as the cause of action arose in the year 1984 and the present application has been filed in the year 1993. It is also pleaded that in absence of the society, this issue cannot be decided. Sri Prashant Mathur, counsel for the respondents has also submitted that the Union of India through D.R.M. has been impleaded as respondent no.1, who is not competent to take any action. Thus, the applicants are not entitled for any relief. We have considered the submissions of the counsel for the parties. The question of Railway porters has been considered in detail by the Hon'ble Supreme Court in the case of National Federation of Railway Porters, Vendors & Bearers Vs. Union of India & Others (JT 1995(4) SC 568). The Hon'ble Supreme Court by the aforesaid judgment accepted the claim of the Railway porters and gave following directions:-

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"(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 utilising their services for any other manual work of the Railways depending upon its needs.

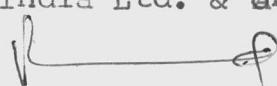
(6) In the matter of absorption of Railway Parcel porters on contract labour as permanent and regular Railway Parcel porters, the persons who have worked for longer periods as contract labour shall be preferred to those who are put in shorter period of work.

(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 no 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."

3. This matter was again considered by the Constitution Bench of the Hon'ble Supreme Court in the case of Steel Authority of India Ltd. & others vs. National

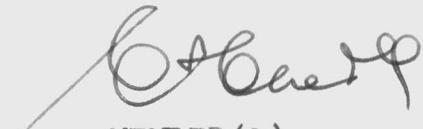
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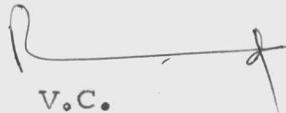


Union Waterfront Workers & Others (2001 SCC (L&S) 1121) In para 98 of the Constitution Bench of the Hon'ble Supreme Court approved the earlier judgments. Para 98 reads as under :-

" In National Federation of Railway porters, Vendors & Bearers Vs. Union of India a two Judge Bench of this Court on the basis of the findings contained in the report of the Labour Commissioner that there was no evidence that the labourers were the employees of the Society (contractor) and that they were contract labourers provided by the Society under the agreement treated them as labourers of the Northern Railway as they had completed 240 days of continuous in a year, some from 1972, some from 1980 and some from 1985. Following the order of this Court dated 15.4.1991 (Raghavendra Gumashtra vs. Union of India) the Court directed their absorption in the railway service."

4. In our considered opinion that in view of the judgment of the Hon'ble Supreme Court, the applicants are entitled for the relief. The O.A. is accordingly disposed of with the direction to the respondents to consider the claim of the applicant nos. 1,4 & 6 for absorption in accordance with law and as directed by <sup>In respect of other applicants O.A. is dismissed,</sup> the Hon'ble Supreme Court. <sup>No order as to costs.</sup>

  
MEMBER (A)

  
V.C.

GIRISH/-