

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH,
ALLAHABAD

Dated : Allahabad this the ..4/5 day of November 1996.

CORAM : Hon'ble Mr. T. L. Verma, Member-A
Hon'ble Mr. S. Dayal, Member-A

Original Application No. 1642 of 1994.

Arvind Kumar aged about 32 years,
son of Sri C.D.Kumar resident of
662-A, Loco Colony, 9, Marg, Allahabad...applicant.
(BY COUNSEL SRI S. C. BUSHWAR & SRI SATYA VIJAY)

Versus

1. Union of India
through the General Manager (P),
Northern Railway Headquarters, Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M. Office, Nawab
Yusuf Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad. Respondents.
(THROUGH COUNSEL SRI B.B.PAUL)

CONNECTED WITH

I. O.A.No. 1643 of 1994

Atul Kashyap, aged about 28 years,
son of Sri N.S.Kashyap, resident of
671-D, Smith Road, Railway Colony,
Allahabad.applicant

(THROUGH COUNSEL SRI S.C.BUDHWAR & SRI SATYA VIJAY)

Versus

1. Union of India,
through the General Manager (P),
Northern Railway, Headquarters Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M. Office, Nawab
Yusuf Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.

.....Respondents.

(THRO JGH COUNSEL SRI B. B. PAUL)

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W - I - T - H

O.A. NO. 1644 of 1994.

Sailendra Kumar Sriwas aged about 29 years, s/o. Sri Ram Sewak Sriwas, R/o. 97/234, Jayantipur, Preetam Nagar, Sulemsarai Allahabad....applicant.
(THROUGH COUNSEL SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSES

1. Union of India, through the General Manager (P),
Northern Railway Headquarters Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway D.R.M. Office, Nawab Yusuf Road,
Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager, Northern Railway,
Allahabad Station,
District Allahabad.

.....Respondents.

(THROUGH COUNSEL SRI B.B.PAUL)

WI TH

Original Application No. 1645 of 1994.

Sri Jai Narain, aged about 33 years,
son of Sri Ram Das,
Resident of 2/92-A,
Rama Nand Nagar, Allahpur,
Allahabad.applicant
(THROUGH SRI S.C.BUDHWAR AND SRI SATYA VIJAY)

VERSUS

1. Union of India,
through the General Manager (P),
Northern Railway, Headquarters, Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road,
Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway D.R.M. Office, Nawab
Yusuf Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.

.....respondents.

(THROUGH COUNSEL SRI B.B.PAUL)

W I T H

ORIGINAL APPLICATION NO. 1646 of 1994.

R.K.Abbhi aged about 29 years,
son of Sri G.S.Abbhi, resident of
656, D.Loco Colony, Allahabad.....applicant.
(THROUGH SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSUS

1. Union of India,
through the General Manager (P),
Northern Railway, Headquarters Office,
Bereda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.MOffice,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M.Office,Nawab Yusuf
Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.

.....Respondents
(THROUGH COUNSEL SRI B.B.PAUL)

W I TH

ORIGINAL APPLICATION NO. 1647 of 1994.

Harish Chandra Yadav, aged about 29
years, s/o. Sri Kallu Ram, resident of
794, Railway Colony, Chaufataka, Distt.
Allahabad. Applicant.
(THROUGH SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSS

1. Union of India,
through the General Manager (P)?
Northern Railway Headquarters Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road,
Allahabad.
4. Senior Divisional Personal Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway,
Nawab Yusuf Road, Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.
..... Respondents.
(THROUGH SRI B.B.PAUL)

W I TH

ORIGINAL APPLICATION NO. 1648 of 1994.

Shiv Prasad Shukla, aged about 31
years, son of Sri Ram Dularey Shukla,
Resident of 59, Old Allahpur,
Allahabad.Applicant.
(THROUGH SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSUS

1. Union of India,
through the General Manager (P),
Northern Railway, HeadQuarters,
Office, Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M.Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M.Office,
Nawab Yusuf Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.

....Respondents

(THROUGH SRI B.B.PAUL)

W I TH

ORIGINAL APPLICATION NO. 1649 of 1994.

Lalit Mohan Dubey aged about 28 years,
son of Shri Madan Mohan Dubey resident of
201, Pura Baldi Kydganj, Distt. Allahabad.

(THROUGH SRI S.C.BUDHWAR & SRI ^{Applicant.} SATYA VIJAY)

VERSUS

1. Union of India,
through the General Manager (P),
Northern Railway Headquarters, Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M. Office, Nawab
Yusuf Road, Allahabad.
4. senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.

.....Respondents.

(THROUGH SRI B.B.PAUL)

W I T H

ORIGINAL APPLICATION NO. 1650 of 1994.

Rajneesh Kumar Singh, son of
Sri Heera Mani Prasad Singh,
R/o. 178, Mahajpur, Allahabad, City,
Allahabad. ...applicant.
(THROUGH SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSUS

1. Union of India,
through the General Manager (P),
Northern Railway, Headquarters, Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.M. Office, Nawab Yusuf
Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
Allahabad.

.....Respondents.

(THROUGH SRI B.B.PAUL)

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W I T H

ORIGINAL APPLICATION NO. 1651 of 1994.

Om Prakash Shukla aged about 29 years,
son of Sri Thakur Prasad Shukla resident of
Village Basaunhi P.O. Manjhanpur (Korro)
District AllahabadApplicant.

(THROUGH SRI S.C.BUDHWAR & SRI SATYA VIJAY)

VERSUS

1. Union of India through the
General Manager (P), Northern
Railway Headquarters Office,
Baroda House Office, New Delhi.
2. Divisional Railway Manager,
Northern Railway, D.R.MOffice,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.MOffice,
Nawab Yusuf Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf
Road, Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
District Allahabad.
.....Respondents.

(THROUGH SRI B.B.PAUL)

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AND ALONGWITH

ORIGINAL APPLICATION NO. 1652 of 1994.

Brijesh Kumar Singh aged about 26 years,
son of Sri Raj Dev Singh, resident of
B-161C, Kareilly Scheme,
Allahabad.Applicant.

(THROUGH SRI S.C.BUDHWAR AND SRI SATYA VIJAY)

VERSUS

1. Union of India through the
General Manager (P),
Northern Railway Headquarters Office,
Baroda House, New Delhi.
2. Divisional Railway Manager,
Northern Railway D.R.M. Office,
Nawab Yusuf Road, Allahabad.
3. Senior Divisional Commercial Manager,
Northern Railway, D.R.MOffice, Nawab Yusuf
Road, Allahabad.
4. Senior Divisional Personnel Officer,
Northern Railway, Nawab Yusuf Road,
Allahabad.
5. Divisional Commercial Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.
6. Station Manager,
Northern Railway, Allahabad Station,
Distt. Allahabad.

....respondents.

(THROUGH SRI B.B.PAUL)

O_R_D_E_R

(By Hon'ble Mr. T. L. Verma, JM)

The above O.As.. which involve common questions of law and facts, have been heard together and are being disposed of by this common order.

2. The applicants in all these O.As. have worked voluntarily /Mobile Ticket Collector in the Railways for various periods prior to 17.11.1986. In pursuance of the directions issued by a bench of the Administrative Tribunal, Principal Bench, New Delhi in Neera Mehta's case reported in A.T.R. 1991(1) page 380, issued circular dated 6.2.1990 to all the Zonal Managers of the Railways to consider absorption in regular employment, against regular vacancies, of Mobile Booking Clerks who were engaged as such before 17.11.1986 and 20.8.1985. The applicants also sought regularisation of their service on the basis of the aforesaid circular. The requests of the applicants, was not granted. The applicants, therefore, approached this Tribunal by filing O.A.No.793 of 1990 (Atul Kashyap & others Vs. Union of India & others) for issuing a direction to the respondents to extend the benefit of the said circular dated 6.2.1990 to the applicants also. The said O.A. was disposed of by order dated 21.11.1990 with the direction to the respondents to consider the claim of the applicants for getting the benefit of Railway Board's letter dated 6.2.1990. When the respondents failed to comply with the aforesaid order, a Contempt Application No. 159 of 1992 was filed. Contempt Petition was

disposed of by order dated 28.1.1992. The Tribunal while clarifying the order passed in O.As. No.793 of 1990 observed that 'if it be so, Railway Department give the appointment of Mobile Ticket Collectors in pursuance of the judgment and order dated 20.11.1991 within three weeks thereof'. Thereafter letters appointing them as Mobile Ticket Collectors were issued in compliance with the directions issued in O.A.No.793 of 1990 and CCP No.159 of 1992. They were worked as such continuously until their services were discontinued by impugned order dated 30.9.1994. These applications have been filed for quashing the aforesaid orders and for issuing a direction to the respondents to extend the benefit of the temporary status alongwith C.P.C.Scale to the applicants after completion of 120 days of continuous service and to treat them as temporary Railway Servants and pay salary and other allowances as are admissible to similarly placed Railway employees.

3. The respondents have appeared and contested the claim of the applicants. In the counter-affidavit filed on behalf of the respondents, it has been stated that the applicants had worked for 10 days only and that the period of 10 days is not enough to confer any legal right on them. The further case of the respondents is that Railway Board's letter dated 6.2.1990 does not apply to the category of Voluntary Mobile Ticket Collector to category to which the applicants belong. Besides the above, the applicants and a number of other candidates, whose request for being given the benefit of Railway Board's circular

dated 6.2.1990 was not accepted, filed O. A. Nos. 131, 173, 955, 1188, 1189 of 1992 and O.A.No. 826 of 1991. In the aforesaid O.As. a direction was given to the respondents to find out, if any, scheme can be framed for absorption and regularisation of the Mobile Ticket Collectors against permanent jobs. The respondents moved the Hon'ble Supreme Court by filing Special Leave Petition. The Special Leave Petition was disposed of with the observations that "there is no obligation ^{cast} caused by impugned order that the scheme should be framed in any case." After the decision of the Hon'ble Supreme Court, in the aforesaid Special Leave Petition, the respondents considered whether ^{and} that framing of such scheme is ^{not} feasible. ~~such a scheme can not be framed.~~ After the said decision, the impugned order informing the applicants that they are ^{not} more entitled to continue in service on the post of Voluntary Mobile Ticket ^{was issued} Collector, and accordingly their services were discontinued with effect from the date of the order. The Mobile Ticket Collectors aggrieved by the aforesaid order of the respondents filed a number of cases. A bunch of 73 ^A cases, leading case of which was O.A. No. 83 of 1992, was heard and disposed of by a bench comprising of Hon'ble Vice-Chairman and Mr. K. Muthukumar ^{Administrative Member}, by order dated 9.12.1994. In these cases, the bench has held ~~the view that the Voluntary~~ ^{Booking} Mobile Collectors and Mobile Ticket ~~Concessions~~ Clerks are two different categories and that instructions issued by Railway Board by letter dated 6.2.1990 ^{Booking} are applicable to the category of Mobile ~~Ticket~~ ^{that} Clerks and the Voluntary Ticket Collectors are not

entitled to the benefit of the same and accordingly dismissed the O.A. as devoid of merits.

4. The first case in which the controversy regarding regularisation of Voluntary Ticket Collectors ^{up consideration} came ~~to~~ force is Sameer Kumar Mukherjee Vs. General Manager, Eastern Railway and others, reported in A.T.R. 1986(2) CAT 7. The applicants in the said case were engaged as Voluntary Ticket Collectors to assist the Railway ticket checking staff for a short period and then their employment was extended from time to time with the result that they served continuously without any break for more than 365 days. They were, however, dis-engaged by order dated 16.12.1985 with effect from 30/31.1.1986. They challenged the order dis-engaging them by filing O.A. No. 10 of 1986. The order dated 16.12.1985 dis-engaging the applicant was quashed and the respondents were directed to treat the applicants as temporary employees.

5. The next case in which the controversy involving the Mobile ~~Ticket~~ ^{Booking Clerks} Collectors came up for consideration was Neera Mehta & others Vs. Union of India and others, decided by Principal Bench of Central Administrative Tribunal reported in A.T.R. 1989(1) page 380. The petitioners in that O.A. filed ^{an} application u/s. 19 of the Administrative Tribunals Act, 1985 challenging their termination order as Mobile Booking Clerks with effect from 12.12.1986. The O.A. was allowed and the orders terminating the services of the applicants ^{were} was

16.

quashed by the Principal Bench with a direction to the respondents to reinstate the applicants irrespective of period of service put in by them and direction regarding conferring temporary status on those who had put in continuous service of 120 days was also issued. The respondents were also directed to consider the applicants for regularisation and permanent absorption in accordance with the provisions of the Scheme.

6. Similarly Miss. Usha Kumar Anand and others, who had worked as Mobile Booking Clerks for various period prior to 17.11.1986, filed several O.As., leading case whereof was O.A.No.1376 of 1987. These O.As. were also allowed and directions in the line ~~with~~ of Neera Mehta's case were issued. While deciding these O.As. the Tribunal has relied on the decision of the Calcutta Bench of the Administrative Tribunal in Sameer Kumar Mukherjee Vs. General Manager, Eastern Railway and others reported in A.T.R. 1986(2) A.T.C. Page 7. Relying on the decision of Sameer Kumar Mukherjee's case the learned counsel for the applicants submitted that the nature and the circumstances of appointment of both the voluntary Ticket Collectors and Mobile Booking Clerks being the same, the Voluntary Ticket Collectors also were entitled to the same benefits which have provided to Mobile Booking Clerks in terms of instructions contained in letter dated 6.2.1990.

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7. Shri S.C. Budhwar, appearing for the applicants, filed copy of the order rendered by Hon'ble Supreme Court in Civil Appeal arising out of S.L.P.(C) Nos. 14756-61 of 1993, 11631 of 1994 and 20114 of 1993 (Union of India & ors Vs. Pradeep Kumar Srivastava and others.

The Supreme Court by the said judgment has set-aside the order passed by a bench of this Tribunal in O.A. No. 479 of 1993.

8. O.A.No.479 of 1993 is one of the cases which has been dismissed by a bench of this Tribunal wherein it has been held that the Mobile Booking Clerks and the Voluntary Ticket Collectors belong to two different categories and that the benefit of Railway Board's circular dated 6.2.1990 is available only to Mobile Booking Clerks and that Voluntary Ticket Collector are not entitled to the benefit of the same. The Hon'ble Supreme Court has reversed the above finding by setting aside the order of the Tribunal. As we have already noticed above that in Usha Kumari Anand's case reliance has been placed on the decision of Sameer Kumar Mukherjee which pertain to Voluntary Ticket Collectors. The Hon'ble Supreme Court in the order whereby the judgment of this Tribunal in O.A.No.479 of 1993 has been set-aside has held that the appeals are disposed of with the direction given in the case of Usha Kumari Anand and the respondents were directed to examine the case of the appellants in accordance with the directions contained in paras 37 and 38 of the Tribunal's judgment in

that matter. The case of the applicants in these O.As. is similar to that of the O.A.No.479 of 1993. Hence the controversy whether the Voluntary Ticket Collectors are entitled to the benefit of the instructions issued by the RailwayBoard in their letter dated 6.2.1990 is available to the Voluntary Ticket Collectors or not, stands settled in the aforesaid case. The Hon'ble Supreme Court, thus, by setting aside the judgment of this Tribunal in O.A.No.479 of 1993 and by issuing a direction to the respondents to examine the case of the applicants in accordance with the directions contained in para 37 and 38 of Usha Kumari Anand's case put ^{laid down} a stamp of approval to the ~~law~~ ^A in Samir Kumar Mukherjee's case. Therefore, there is nothing more for this Tribunal to ~~be~~ adjudicated in these applications.

9. The applicants of all these original Applications are, therefore, entitled to the benefit of the decision of Hon'ble Supreme Court referred to above. These applications therefore, will abide by the decision of Hon'ble Supreme Court in Civil Appeal referred to above. A copy of this order be placed in the records of all the cases. There will be no order as to costs.

Member-A

Member-J

(Pandey)

M.A. 2759198 in
O.A. 1646194

O.R.

M.A. 2759198 filed
by U.S. G.S. after
through Ser. B.B.

Pl. Adv. is
submitted
before Han.
Court for Adv.
on 4-9-98

True
31-8-98

27.10.98

Hon'ble Mr. S. Dugal, A.M.

Hon'ble Mr. S.K. Agrawal, J.M.

Shri Sudhir Agrawal counsel for the applicant in O.A. Nos. 414/98, 464/97, 1642/94, Shri Satya Vijai counsel for the applicant in O.A. Nos. 1940/94, 667/95, 668/95, 669/95, 1941/94, 65/94, 666/95, 670/95, 1456/97, 1460/97, 23/98, 28/98, 30/98, 469/98, 470/98 and 485/98, Shri Sunil Rai counsel for the applicant in O.A. No. 545/97 and Shri K.S. Saxena counsel for the applicant in O.A. No. 581/98 are present. Shri B.B. Pal is present on behalf of the respondents.

None responded in O.A. No. 1643 to 1652/94 which are also listed for consideration in the bunch and no notices appear to have been issued in these cases.

No arguments have been advanced by Shri Sudhir Agrawal in O.A. No. 414/98 and the other O.A.s. in which Shri Sudhir Agrawal represents the applicants ~~for~~ ^{may have} different facts, therefore these three O.A.s. shall be treated separately and delinked from the bunch although they may be listed on the same date.

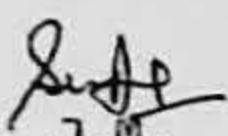
Let the notices be issued in O.A. Nos. 1543/94 to 1652/94 to the applicants to appear personally or through a counsel within four weeks, in response to Misc. application filed by the learned counsel for the respondents Shri B.B. Pal, O.A. Nos. 1940/94, 667/95, 668/95, 669/95, 1941/95, 545/97 and 581/98 as well as 65/94 and 667/95 may also be listed on the same day as O.A. No. 414/98. Other O.A.s. namely, 1456/97, 1460/97, 23/98, 30/98, 469/98, 470/98 and 485/98 be listed separately for completion of pleadings. These O.A.s. may be listed for orders on 24.11.98.

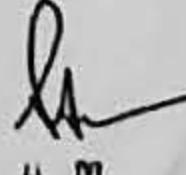
We have heard the learned counsel for the applicant and the learned counsel for the respondents and would like to take up O.A. No. 1642/94 and 793/90 on 24.11.98 for hearing first with reference to the Misc. Application filed by the learned counsel for the respondents regarding reference to larger Bench.

All the cases are listed on 24.11.98.

The stay already allowed in O.A. No. 414/98 shall continue till the next date.

A photo-stat copy of the order sheet may be placed in all the cases.


J.M.


H.M.