

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

D.A.No. 212/1999

Allahabad this the 21st day of May, 2002

Hon'ble Mr. C.S. Chadha, A.M.

Hon'ble Mrs. Meera Chhibber, J.M.

1. Hari Har son of Rama Shanker,
Gajarpur, Madhubani, Azamgarh.
2. Ram Kishor S/o Thakur Din, Bishajap Meja, Allahabad.
3. Shambho Singh S/o Late Kailashwar Singh
Molanapur Rampur Kanoongean Ubhaon
Ballia.
4. Jan Mohammad S/o Abdul Rajjak
Sarai Mumrej, Handia,
Allahabad.
5. Jagan Nath S/o Late Khemai
69, Bai Ka Bagh, Allahabad.
6. Krishna Kumar S/o Mishri Lal
100, Lukerganj, Allahabad.
7. Neeraj Yadav, S/o Gopal Ji Yadav
822 A/2 1465 Daryabad, Allahabad.
8. Rakesh Kumar Sharma, S/o Madan Lal Sharma,
84, Rani Mandi, Allahabad.
9. Om Prakash Singh S/o. Sri Shiva Nand Singh,
Vill. & P.O. Pitrow Bhojpur
Sahabad, (Bihar).
10. Dashrath Yadav, S/o. Ram Prasad Yadav,
Bela Khajoori Babuka, Ghorsaon,
Gorakhpur.
11. Prabhull Kumar S/o Ram Narain Gaur
918, Kalyani Devi, Allahabad.
12. Sujeet Kumar Chaurasia S/o Nand Lal Chaurasia
319 M/A Harshwardhan Nagar
Neerapur, Allahabad.
13. Hari Shanker Sharma, S/o Madan Lal Sharma
84, Rani Mandi, Allahabad.
14. Aslam S/o Muslim, Barkhare,
Ghaziपुर.

..... Applicants

Sri.
(By Advocate: /A.K. Srivastava)

Versus

1. Union of India, through the Chairman
Railway Board, Rail Bhavan, New Delhi.
2. General Manager, Northern Railway,
Baroda House, New Delhi.
3. Divisional Rail Manager,
Northern Railway, Allahabad Dn. Allahabad.

4. Through its secretary,
Railway Sahkari Shram Samvida
Samiti Limited, Tundla.

..... Respondents

(By Advocate: Sri. G.P. Agrawal)

O R D E R (Oral)

Hon'ble Mrs. Meera Chhibber, J.M.

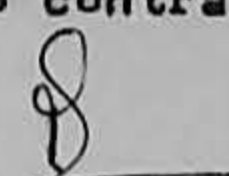
We have heard Sri.A.K.Srivastava, counsel for the
applicants and Sri.G.P. Agrawal, counsel for the respondents.

2. The applicants numbering 14 in this OA have prayed for
following reliefs:

"8.1. issue an appropriate writ in the nature of
Mandamus or any other appropriate writ, direction
or order directing the respondents to extend the
same benefits to the applicants herein as has
been given by the Hon'ble Supreme Court in writ
petition No. 277/88 vide its judgment and order
dated 15.4.1991 and writ petition No. 507/92 vide
its judgment and order dated 9.5.1995 which were
filed by the colleagues of the applicants wherein
the Hon'ble Supreme Court after enquiries held
by the Labour Commissioner, Kanpur and the
Assistant Labour Commissioner (Central) Lucknow
have declared that the colleagues of the
applicants are regular employees of the Railways.

8.2. Issue any appropriate writ, direction or order
commanding the respondents to treat the applicants
as employees of Northern Railway and give them the
same benefits which have been given to other
regular parcel porters working at different
Railway Stations of Northern Railway, North
Eastern Railway, Eastern Railway and other
Regional Railways of the Indian Railways.

8.3. Issue an appropriate writ, direction or order
commanding the respondents to stop treating the
applicants as contract labourer at Railway



Stations of Northern Railway, who are working as Parcel porters for loading and unloading of parcels as this work done by the applicants is of permanent and perennial nature; and

8.4. Pass such other and further order or orders at this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

3. The applicants relied on two judgments given by the Hon'ble Supreme Court and annexed with the petition at pages 39, 43 and 55. The basic judgment is reported in JT 95 Vol.IV SC 568, National Federation of Railway Porters, Vendors and Bearers, Vs. Union of India & Ors. The applicants have simply stated in the OA that they may given the benefit of judgment decided by the Hon'ble Supreme Court. However, a perusal of the entire OA shows that the applicants have not ^{even} ~~been~~ bothered to aver as to from which period to which period they had worked with the respondent no.4 nor any other details have been given by the applicants to substantiate their claims that they have been working as parcel porters with the respondent no.4.


4. The respondents in the reply had catagorically denied ^{Stating} that they have never engaged the applicants (Railway Admn.), the averments made by the applicants are absolutely vague, neither they are the parcel porters as alleged nor they are workers of the above mentioned society. They have further stated that the applicants cannot claim to be Railway servant as they have not even submitted any documentary evidence to show that they ^{were} ~~have~~ permanent member of any recognized society which is a condition precedent for entertaining the case of




any society members. We have seen, this counter was filed as back as ^{in B} June 2000, applicants ^B have not even bothered to file rejoinder to rebutt the averments made by the respondents nor they have bothered to bring any documents on record to substantiate their claim made in the OA. Thus in law ^B ~~and~~ the averments made by the respondents stand admitted in law. Even otherwise the Hon'ble Supreme Court while dealing with the case of casual labourers in Ratan Chandra Samanta's case ^B was faced with the similar situation ^{when B} ~~whether~~ the petitioners therein were claiming to be the casual labourer working with the Railways for number of years but had not filed any documents to substantiate their claim. The Hon'ble Supreme Court had rejected the petition by observing that in the absence of any positive pleadings or evidence on record even at this stage before the Court, no directions can be given to the respondents to even ^B ~~considering~~ the cases of those petitioners as that would amount to giving direction ^{hold B} to a roving enquiry giving possibility of ^{manoeuvring B} by the persons who are in a position to ^{do so B}. In the instant case also the applicant's counsel has vehemently urged that he be given further opportunity to bring on record such documents to show that they had worked with the respondent no.4. But now that this OA has come for final hearing and ~~as~~ mentioned above the counter was already filed in June 2000 almost two years have passed by, that stage has already gone ~~over~~ and no liberty can be given at this stage to file any



rejoinder ^{especially B} ~~case~~ ^{on} when the last date of hearing no such request was made by the applicants counsel and he had sought adjournment only on the ground that he be given a short adjournment for preparing the case. Thus in the absence of positive averments made by the applicants no such direction can be given ~~by~~ to the respondents to give the benefit of judgment given by the Hon'ble Supreme Court. We have also perused the representation given by the applicants which is on page 47 of the OA and to our utter surprise even in the said representation no particulars whatsoever of any of the applicants about their working ^{have been given B} ~~conditions~~ ^{to} ~~have been given~~ at all and they have simply referred the decision of the Hon'ble Supreme Court and sought the benefit of said judgment. It goes without saying that even if some employees want the benefit ^{of judgment the least they are expected B} ~~to show to the Court or to the authorities~~ that they are similarly situated persons as the employees who have been given benefit by the Hon'ble Supreme Court. In the absence of any such averments we find no good ground to interfere in the said matter since the O.A. is devoid of merit the same is rejected with no order as to costs.


Member (J)


Member (A)

vtc..