

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 7TH DAY OF APRIL, 2005
Original Application No. 1602 of 2002

CORAM:

HON.MR.V.K.MAJOTRA, VICE CHAIRMAN
HON.MR.A.K.BHATNAGAR, MEMBER(J)

1. Moti Lal, son of Sri Mewa Lal
R/o Village & Post Basuhara, ari Aqil, Kaushambi
2. Amrit Lal, sosn sof Phool Chand,
R/o H.No.119A/1, Meerapur, Kohrana
P.S. Attarsuiya, Allahabad.
3. Lalji, son of Devnarain, R/o Pooramufti
P.O. Pooramufti, Allahabad.
4. Om Babu, son of Ram Kishun, R/o 1043/A
Kalindipuram Chauraha, P.S. Dhoomanganj,
Allahabad.
5. Shiv Krishna, son of Mewa Lal, R/o village
& post-Basuhara, P.S.Sarai Aqil, Kaushambi
6. Ramji, son of Dev Nath, R/o House No. 119 A/1
Meerapur Kohrana, P.S. Attarsuiya, Allahabad.
7. Ramu Gupta, son of Sri Mewa Lal, R/o
Village & Post Kohrana, P.S. Attarsuiya, Allahabad
8. Lalta Prasad, son of Sri mewa Lal, R/o village &
Post Basuhara, P.S. Sarai Aqil, Kaushambi.
9. Ashok Kumar, sossn of Ram lal Kushwaha,
R/o Meerapatti, P.O. Mundera, P.S. Dhoomanganj,
Allahabad.
10. Om Prakash, son of Ram Lakhan,
R/o Gaughat Railway colony, P.S.Kydganj,
Allahabad.
11. Suresh Chandra, son of Keeshav Prasad,
R/o village Mayarampurwa, p.O. Dharupur,
P.S. Sarai Aqil, Kaushambi.
12. Gore Lal, son of Moti Lal
R/o village Sarai Aqil, P.O. Sarai Aqil,
Kaushambi.
13. Laxmi Narain, son of Ganga Prasad,
R/o Vill. & Post Sarai Aqil, Kaushambi.

14. Nathu lal, son of Chhotey Lal,
R/o 147/1F Kalindipuram Rajroopur,
P.S. Dhoomanganj, Allahabad.
15. Babu Lal, sosns of Baijnath Prasad,
R/o village & Post Pindra, Kaushambi.
16. Manik Chandra, son of Laloo Prasad
R/o 1043/A Kalindipuram Chauraha,
Allahabad.
17. Virendra Kumar, son of Dashrath Sahu
R/o Near Tastee Ice Cream
Nawab Yusuf Road, Allahabad.
18. Srikrishna, son of Ram Kumar,
R/o Kalindipuram, Aallahabad.

..Applicants

(By Adv: Shri M.A. Khan)

Versus

1. Union of India, through Secretary
Ministry of Railways, New Delhi.
2. General Manager, Northern
Railway, Baroda House, New Delhi.
3. Divisional Railway Manager,
Allahabad Mandal, Allahabad.
4. Catering Inspector, Allahabad.

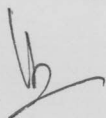
.. Respondents

(By Adv: Shri A.K. Gaur)

ORDER(oral)

HON.MR.V.K.MAJOTRA,V.C.

Applicants, 18 in number, are stated to be licensees as Vendors with the Railways for several years. They have sought a direction to the respondents to treat the applicants as permanent workers similarly as the other Catering Vendors/licensees have been treated under similar circumstances. They had challenged Annexure-22 dated 13.9.01 whereby their representation for recreation with vendors who are engaged departmentally by the Railway Administration has been rejected stating that the applicants are Ice cream Salesmen appointed by Ice Cream Contractors who are not employees of the Railways at all.



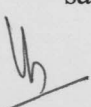
Learned counsel for the applicant pointed out that respondents have taken other similarly circumstanced persons such as Lakhan, Shiv Charan and Beni Madhav on permanent basis to certain other similarly situate persons.

Learned counsel for the applicant pointed out that while applicants other than sl.nos.9,11,13 & 18 have been provided prescribed forms and taken on permanent establishment of the Railways, the remaining applicants have been left out. Learned counsel relied on judgment dated September, 8th, 1987 by the Hon'ble Supreme Court in Writ petition No. 191/86 T.T.Madhavan Vs. Union of India & Ors stating that Vendors and Bearers like the applicants were directed to be absorbed and held entitled to salary from the date of absorption. Learned counsel also relied on Annexure-21 which are stated to be receipts for total collections as sales by the concerned Vendors and deposited with the Railways.

On the other hand, learned counsel for the respondents maintained that the applicants are vendors engaged by Ice-cream Contractors and are not eligible for regularization. He also contended that no such vendors of Ice-cream Contractors as the applicants have been regularized in the services of the Railways.

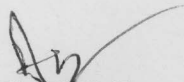
We have considered the respective contentions of the parties as also the material on record.

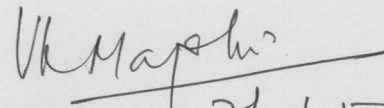
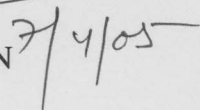
The contention made on behalf of the respondents that the applicants are employees of the contractors and not of the Railways has not been specifically denied in rejoinder filed by the applicants. Annexure-21 which has been relied upon by the applicants is not a receipt for deposit of collections made by them with the Railways but receipt for deposit of penalty amount imposed on some of the applicants as vendors. Applicants have also not been able to adduce evidence with relation to regularization of the services of similarly situate persons with the Railways. The case of T.T.Madhavan(Supra) is distinguishable inasmuch as while the applicants are stated to be employees of the contractors, the petitioners in the case of T.T.Madhavan (supra) were salaried bearers of the Railway Catering establishment. No rules ^{of} of the instructions have



been shown in the instant case committing consideration for absorption of the contract employees in the regular Railway Establishment. Even if, some of the applicants may have been absorbed by the Railways that would not give any right to the remaining applicants for similar absorption unless their own rights were established.

Having regard to the discussion made and reasons stated above, this OA is liable to be dismissed being devoid of merit. Dismissed accordingly. No costs.


MEMBER(J)


VICE CHAIRMAN 

Dated: 7th April, 2005

Uv/