

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 9th day of February, 2004.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.
HON. MR. D. R. TIWARI, A.M.

O.A. No.283 of 2003

1. Nand Lal son of Sri Mahadev, Pan Trolley Vendor at Plat-form No.6, Northern Railway, Varanasi.
2. Rajendra Prasad son of Sri Balla Shah, Tea Stall at Platform no.9 Northern Railway, Varanasi.
3. Gulab Prasad son of Sri Videshi Prasad, Tea Stall at Platform no.9 Northern Railway, Varanasi.
4. Chandrika Prasad son of Sri Chhedi Lal, Pepsi Stall at Platform no.6 Northern Railway Varanasi.
5. Om Prakash Gupta son of Sri Bansari Prasad, Pepsi Stall at platform no.6 Northern Railway, Varanasi.
6. Makkhan Sao son of Sri Gopal Sao, Tea Stall at Platform No.5, Northern Railway, Varansi.
7. Raj Narayan Son of Sri Lallan Prasad, Tea Stall at Platform no.4, Northern Railway, Varanasi.
8. Sushila Devi, W/o Late Satya Narain, Poori Stall at Plat form no.4 Northern Railway, Varanasi.
9. Om Prakash Gupta, Son of Sri Vishwanath Prasad, Tea Stall at Platform no.5 Northern Railway Varanasi.
10. Hiralal Son of Nanku Paan Khoncha at Plat form no.5, Northern Railway, Varanasi.
11. Rajnath Yadav Son of Sri Kuber Yadav, Poori Trolley at Platform no.5 Northern Railway, Varanasi.
12. Sameer Kumar Son of Late Om Prakash Pal Chhola Bhatura Trolley at Platform no. 4 Northern Railway, Varanasi.
13. Ram Jatan Singh, Son of Sri Ram Bali Singh, Tea Stall at Plat-form No.1, Northern Railway, Varanasi.
14. Sant Kumar son of Sri Shiv Narain, Poori Stall at Plat-form no.1, Northern Railway, Varanasi.
15. Jag Narayan Son of Sri Sita Ram, South East Platform no.1 Northern Railway, Varanasi.
16. Raju Verma Son of Late Ghasi Ram, Paan Trolley at Plat-form no.1, Northern Railway Varanasi.
17. Bechani Devi Wife of Late Ram Kumar, Pan Trolley at Plat form no.1, Northern Railway, Varanasi.
18. Udai Pratap Singh Son of Sri Triloki Nath Singh, Poori Trolley at Platform no.1 Northern Railway, Varanasi.
19. Ram Chander Yadav Son of Sri Chaitu Ram, Tea Trolley at Plat-form no.1 Northern Railway, Varanasi.
20. Chhannu Lal Yadav Son of Sri Ram Lakhan Yadav, Tea Trolley at Plat-form no.1, Northern Railway, Varanasi.
21. Rakesh Kumar Son of Sri Raj Kishore Poori Trolley at Plat-form no.4, Northern Railway, Varanasi.



22. Shyamlal Son of Sri Devan, Tea Trolley at Platform no.4 Northern Railway, Varanasi.
23. Lalita Prasad Yadav Son of Sri Shanker Yadav, Tea Trolley at Plat-form no.1 NR Varanasi.
24. Sewa Lal Son of Sri Ramlal, Tea Trolley, PF-1, Northern Railway, Varanasi.
25. Shital Prasad Son of Sri Vishwanath Pd. Pepsi Trolley at P.F.no.4, NR, Varanasi.
26. Raj Kumar Son of Sri Munnu Paan Khoncha at PF-1 NR, Varanasi
27. Ashok Kumar Yadav Son of Banarsi Pd. SE, PF No.6, NR, Varanasi.
28. Ashok Shah Son of Sri Narayan Shah Poori Trolley at PF No.6 NR, Varanasi.
29. Ram Dayal Son of Sri Kishun Shah Poori Trolley at Platform no.4, Northern Railway, Varanasi.
30. Rajesh Kumar Gupta, Late Ram Narain, South East Platform no.1 Northern Railway, Varanasi.
31. Hanuman Prasad, Son of Sri Gulab Dass Tea Trolley, South East Railway at Platform no.9, Northern Railway, Varanasi.
32. Bachau Gupta Son of Sri Girdhari Lal, Poori Trolley, At Platform no.7, Northern Railway, Varanasi.
33. Mittai Ram son of Sri Ram Dass, Poori Trolley at Platform No.7 Northern Railway, Varanasi.
34. Radhey Lal Son of Sri Devlal Prasad, Tea Trolley at Platform No.7, Northern Railway Varanasi.
35. Jokhan Ram Son of Sri Bechan Ram, Tea Trolley, at Platform No.7, Northern Railway, Varanasi.
36. Mahendra Kumar Son of Sri Ram Sewak Tea Trolley at Platform No.5, Northern Railway, Varanasi.

.....Applicants

ALONGWITH

O.A. No. 313 of 2002

1. Hari Govind Mishra a/a 30 years, S/o Late Shiv Dutt Mishra, R/o 543 NetajiNagar P.A.C. Road, Kanpur Working as Snack and Cold Drinks Vendor (Vendor No.115) Northern Railway, Kanpur Central Kanpur.
2. Tilak Raj a/a 45 years son of Sri Aditya Prasad, R/o 476 Faithfulganj Cantt. Kanpur, Working as Snack and Cold Drinks Vendor (Vendor no.102) NR Kanpur Central Kanpur.
3. Bajrangi Lal a/a 46 years s/o Sri Sheo Lochan Resident of 421 Om Purwa Chakeri Road Kanpur, Working as Snacks and Cold Drinks Vendor (Vendor No.114) NR Kanpur Central, Kanpur



4. Smt. Shahblnisa a/a 47 years W/o Sri Mahboob Ali Resident of 71/104 Sutarkhana Harvansh Mohal Kanpur Working as Snacks Co d Drinks Vendor(Vendor No. 107) NR Kanpur Central Kanpur.
5. Nathu Ram a/a 66 years S/o Sri Sudhir Shyam, Resident of Brahm Nagar Pani Road, Shuklaganj, Kanpur, Working as Tea Trolley, Vendor (Vendor No. 137) NR Kanpur Central Kanpur.
6. Ram Badan Yadav a/a 55 years Son of Sri Ram Khelawan, Resident of 64/244 Gareriya Mohal Kanpur, Working as Tea Trolley Vendor (Vendor no. 165) NR Kanpur Central Kanpur.
7. Jagdish Prasad a/a 52 years Son of Sri Ram Nath Resident of 4/18 Dhaknparwa Kanpur Nagar, Working as Tea Trolley X Vendor (Vendor no. 182)NR Kanpur Central Kanpur.
8. Vikas Gupta a/a 23 years son of Sri Ram Nath, Resident of 408 Om Purwa Chakeri Road, Ksnpur, Working as Tea Trolley Vendor (Vendor no.70) NR Kanpur Central Kanpur.
9. Raj Kumar Sahu a/a 38 years Son of Sri Hari Narain Resident of 132/619 Munshi Purwa Kanpur Working as Roti Trolley Vendor (Vendor No. 19) NR Kanpur Central Kanpur.
10. Mohd. Shamim a/a 48 years son of Sri Tafayat Hussain R/o 45/39 New Chappal Market Moolganj Kanpur, Working as Bhatura Trolley Vendor (Vendor no. 38) NR Kanpur Central, Kanpur.
11. Atique a/a 32 years S/o Sri Hafeez Resident of 77/74 Coolie Bazar Kanpur Nagar Working as Bhatura Trolley Vendor (Vendor no.4) NR Kanpur Central Kanpur.
12. Raj Kumar Gupta a/a 31 years Son of Sri Ram Shanker R/O 333, Rail Bazar , Kanpur, working as Tea Stall Vendor (Vendor No. 172), N.R. Kanpur, Central Kanpur.
13. Mar-boob Hussain a/a 35 years son of Sri Zahoor Mohsin R/O 17/101, Nawab Sahab Ka Hatha, Patalapur, Ram Narain Bazar , Kanpur working as Tea Trolley Vendor (Vendor No.108), N.R. Kanpur Central, Kanpur.
14. Sri Kishan a/a 57 years son of Sri Ram Gopal R/O 260-A, Faithfulganj, Kanpur, working as Poori Stall Vendor (Vendor No.11), N.R. Kanpur Central, Kanpur.
15. Subhash Chandra a/a 52 years son of Sri Raja Ram R/O 340, Faithfulganj, Kanpur, working as Poori Trolley Vendor (Vendor No.177), N.R. Kanpur Central, Kanpur.
16. Sheoraj Singh a/a 49 years son of Sri Ram Swaroop R/O 548-E, Barra, Kanpur, working as Poori Trolley Vendor (Vendor No.42) N.R. Kanpur Central, Kanpur.

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17. Hari Ram a/a 47 years son of Sri Shri Ram Naukar R/O 295, Faithfulganj, Cantt Kanpur, working as Poori Stall Vendor N.R., Kanpur Central, Kanpur.
18. Amarjeet a/a 35 years son of Sri Kalpnath R/O 275, Faithfulganj, Gaushala, Kanpur, working as Poori Trolley Vendor (Vendor No.34), N.R. Kanpur Central, Kanpur.
19. Bal Krishna a/a 34 years son of Sri Bhagwan Das R/O 354 EWS, Barra Kanta Nagar, Kanpur, working as Poori Trolley Vendor (Vendor No.46), N.R. Kanpur Central, Kanpur.
20. Chhotey Lal a/a 43 years son of Sri Mohan Lal R/O E-18/4, Lal Bangla, Kanpur, working as Poori Trolley Vendor (Vendor No.35), N.R. Kanpur Central, Kanpur.
21. Smt. Ilaichi Devi a/a 44 years W/O Sri Dharmraj R/O 313, Faithfulganj, Kanpur, working as Poori Trolley Vendor (Vendor No.24), N.R. Kanpur Central, Kanpur.
22. Om Prakash a/a 45 years S/O Sri Sarju R/O 340, Faithfulganj, Kanpur, working as Poori Stall Vendor (Vendor No.25) N.R. Kanpur Central, Kanpur.
23. Ram Chander a/a 58 years S/O Shri Ram Kumar R/O 70/44, Masuriya Mohal, Kanpur, working as Poori Trolley Vendor (Vendor No.190), N.R. Kanpur Central, Kanpur.
24. Ram Kewal a/a 64 years S/O Sri Ram Chander R/O 340, Faithfulganj, Gaushala, Kanpur, working as Poori Trolley Vendor (Vendor No.22), N.R. Kanpur Central, Kanpur.
25. Ibrahim a/a 64 years S/O Sri Kale Khan R/O Begumparwa, 131/336, Kanpur, working as Cold Drink Vendor (Vendor No. 128), N.R. Kanpur Central, Kanpur.
26. Northern Railway Vendors Association through its President Hari Govind Misra S/O Late Shiv Dutt R/O 543, Netajinagar, P.A.C. Road, Kanpur.

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.....Applicants.

ALONGWITH

O.A. No. 314 of 2002

1. Shiv Gopal Arahari a/a 49 years S/O Sri Bankey Lal, working as Commission Vendors (Catering Unit), N.R., Allahabad Rly. Station, Allahabad.
2. Om Prakash a/a 45 years S/O Sri Mewalal, working as Commission Vendors (Catering Unit), NR, Allahabad Rly. Station, Allahabad.
3. Brijlal Kesharwani a/a 52 years S/O Sri Chhotelal, working as Commission Vendors (Catering Unit), N.R. Allahabad Rly. Station, Allahabad.
4. Amarnath a/a 54 years S/O Sri Pyare Lal, working as Commission Vendors (Catering Unit, NR Allahabad Railway Station, Allahabad.

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5. Pyarelal a/a 56 years S/O Sri Ganga Pd., working as Commission Vendors (Catering Unit), NR Allahabad Railway Station, Allahabad.
6. Chhotelal Sahu a/a 60 years S/O Sri Babulal Sahu, working as Commission Vendors (Catering Unit), NR Allahabad Rly. Station, Allahabad.
7. Kishorilal a/a 52 years S/O Sri Chhoteylal, working as Commission Vendors (Catering Unit), NR Allahabad Railway Station, Allahabad.
8. Subhash Chandra a/a 42 years S/O Sri Madholal, working as Commission Vendor (Catering unit), NR Allahabad Railway Station, Allahabad.
9. Nand Lal a/a 51 years S/O Sri Guru Pd., working as Commission Vendor (Catering Unit), NR Allahabad Railway Station, Allahabad.
10. Anil Kumar a/a 26 years S/O Sri Ram Babu, working as Commission Vendor (Catering Unit), NR Allahabad Railway Station, Allahabad.
11. Shri Chandra a/a 45 years S/O Sri Ganga Prasad, working as Commission Vendor (Catering unit), NR Allahabad Railway Station, Allahabad.
12. Sharda Prasad a/a 55 years S/O Sri Surya Prasad, working as Commission Vendor (Catering unit), NR Allahabad Railway Station, Allahabad.
13. Heera Lal a/a 62 years S/O Sri Natthu Lal, working as Commission Vendor (Vending Unit) NR Allahabad Railway Station, Allahabad.
14. Jai Prakash S/O Sri Pyare Lal, working as Commission Vendor (Vending Unit), NR Allahabad Railway Station, Allahabad.
15. Babu Lal a/a 62 years S/O Sri Ayodhya Prasad, working as Commission Vendor (Vending Unit), NR Allahabad Railway Station, Allahabad.
16. Sunder Lal a/a 55 years S/O Sri Alopidin, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
17. Hajari Lal a/a 55 years S/O Sri Kanhaiya Lal, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
18. Ram Nath a/a 60 years S/O Sri Ganga Ram, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
19. Bhai Lal a/a 58 years S/O Sri Sheetal Din, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
20. Pitambar Lal a/a 55 years S/O Sri Maithar Nath, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.

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21. Phoolchand a/a 57 years S/O Sri Vishan Lal, working as Commission Vendor (Vending Unit), NR Allahabad Railway Station, Allahabad.
22. Gopal Sharma a/a 52 years S/O Sri Dev Saran, working as Commission Vendor (Vendor unit), NR Allahabad Railway Station, Allahabad.
23. Meera Devi a/a 42 years W/O Shyam Babu, working as Commission Vendor (Vendor unit), NR Allahabad Railway Station, Allahabad.
24. Ram Avtar a/a 49 years S/O Sri Sri Ram, working as Commission Vendor (Vending Unit), NR, Allahabad Railway Station, Allahabad.
25. Roop Kishore a/a 45 years son of Sri Jwalal Prasad, working as Commission Vendor (Vending unit) NR, Allahabad Railway Station, Allahabad.
26. Ram Chander I a/a 56 years S/O Cheddi Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
27. Kamlesh Kumar a/a 45 years S/O Kallu Ram, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
28. Shankar Lal a/a 43 years S/O Sri Moti Lal, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
29. Om Prakash a/a 42 years S/O Sri Nanku Lal, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
30. Munna Lal I a/a 45 years S/O Sri Pyare Lal, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
31. Urmila Devi a/a 47 years W/O Sri Ram Chander, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
32. Ajay Kumar a/a 38 years S/O Sri Pyare Lal, working as Commission Vendor (Vendor unit), NR Allahabad Railway Station, Allahabad.
33. Vishnu Sharma a/a 40 years S/O Sri Dev Saran, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
34. Vinod Sharma a/a 30 years S/O Sri Chabi Lal, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.
35. Vimla Devi a/a 52 years W/O Sri Jhanna Lal, working as Commission Vendor (Vendor unit), Allahabad Railway Station, Allahabad.
36. Avadh Narain a/a 55 years S/O Sri Ram Raj, working as Commission Vendor (Vendor Unit), NR Allahabad Railway Station, Allahabad.

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37. Amrit Lal a/a 57 years S/o Sri Natthu Lal, working as Commission Vendor (Vendor unit), NR Allahabad Railway Station, Allahabad.
38. Udaiveer Pathak a/a 58 years Son of Sri Lalla Pathak, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station Allahabad.
39. Vaij Nath a/a 60 years S/o Sri Pyare Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
40. Onkar Nath a/a 43 years S/o Sri Pyare Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
41. Hari Shanker a/a 50 years S/o Sri Amar Nath Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
42. Shyam Ji a/a 51 years S/o Sri Radkey Shyam, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
43. Mohammad Qamar a/a 29 years S/o Sri Rahmat Ullah, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
44. Shanti Devi a/a 52 years W/o Sri Raj Bahadar Singh, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
45. Om Prakash a/a 45 years S/o Sri Pyare Lal, working as Commission Vendor (Vendor unit) NR Railway Station Allahabad.
46. Ashok Kumar a/a 35 years S/o Sri Mool Narain, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
47. Deena Nath a/a 59 years S/o Shri Ram Avtar, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
48. Miya Deen a/a 60 years S/o Sri Gaffar Ahmed Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
49. Virendra Pratap a/a 51 years S/o Sri Baij Nath, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
50. Brij Bihari a/a 34 years S/o Sri Paras Nath, Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
51. Gulab Chand a/a 46 years S/o Sri Basant Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
52. Mohammad Javed a/a 51 years S/o Sri Mohammad Jaisab, working as Commission Vendor (Vendor unit) NR Railway Station, Allahabad.

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53. Saleem Shahjade a/a 39 years S/o Sri Munneer Ahmad, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
54. Amrit Lal a/a 60 years S/o Sri Moti Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
55. Saleem Ahmad a/a 50 years S/o Sri Jaleel Ahmad, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
56. Ghaseete Lal a/a 55 years S/o Sri Goni Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
57. Rajendra Kishore a/a 39 years S/o Sri Jwala Prasad, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
58. Satish Chand a/a 50 years S/o Sri Tokar Sahib working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
59. Om Prakash a/a 40 years S/o Sri Pyare Lal Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
60. Ram Chander a/a 42 years S/o Sri Chotte Lal, Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
61. Shiv Babu a/a 42 years S/o Sri Prabotya Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
62. Beni Madhav a/a 45 years S/o Sri Moti Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
63. Ram Kailash a/a 41 years S/o Sri Ram Kumar, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
64. Radha Devi a/a 32 years W/o Sri Jagroop Chand, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
65. Raj Dev a/a 45 years S/o Sri Ram Lakhan, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
66. Vijay Bahadur a/a 50 years S/o Sri Kishan Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
67. Prem Chand a/a 45 years S/o Sri Heera Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.

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68. Munni Lal a/a 47 years S/o Sri Puttann Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
69. Raj Narain a/a 45 years S/o Sri Ram Raj, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
70. Cheddi Lal a/a 52 years S/o Sri Sukh Ram Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
71. Kallu Ram a/a 45 years S/o Sri Ram Dulare Working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
72. Amar Nath III a/a 43 years S/o Sri Banke Lal, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.
73. Bhola Nath a/a 49 years S/o Sri Kallu Ram, working as Commission Vendor (Vendor unit) NR Allahabad Railway Station, Allahabad.

.....Applicants.

Counsel for applicants : Shri S. Agarwal.

Versus

1. Union of India through the Secretary, Ministry of Railways, Rail Bhawan, New Delhi.
2. The Railway Board, Rail Bhawan, New Delhi through its Chairman.
3. Addl. Member (IASC Ltd.) Railway Board Rail Bhawan, New Delhi.
4. The General Manager, Northern Railway Baroda House, New Delhi.
5. Divisional Railway Manager, NR Allahabad.
6. The Senior Divisional Commercial Manager, Northern Railway, Allahabad.
7. Indian Railways Catering and Tourism Corporation Limited, 9th Floor, Bank of Baroda Building Sansad Marg, New Delhi through its Managing Director.

..... Respondents.

Counsel for respondents : Shri A.K. Gaur.



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ORDER (Oral)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri S. Agarwal, learned counsel for the applicant, Sri A.K. Gaur, learned counsel for respondents and perused the pleadings.

2. The applicants in this bunch of three O.As. have been working as Commission Vendors either at Allahabad or at Kanpur or at Varanasi Railway Platforms. Concededly, in T.I. Madhwan Vs. Union of India & others 1988 Supp. SCC 437, the Hon'ble Supreme Court was pleased to direct that "all persons working as Commission bearers and vendors on various Railway platforms belonging to the Central Railway and the South Central Railways would be absorbed progressively as members of the permanent Railway Catering Service as per the terms of paragraph 3 of the Memorandum No.76-TG-III/639/II dated Dec. 13, 1976 issued by the Joint Director, Traffic-Commercial (G)-II, Railway Board, New Delhi as and when vacancies to the posts of bearers in the Railway Catering Services occur. The concerned Railway administrations were directed to first absorb all the bearers registered in accordance with the aforesaid memorandum and thereafter the vendors, 80 in number coupled with the direction that 'until all the bearers and vendors are accordingly absorbed', the Railway Administration would not recruit or appoint any person either as a bearer or vendor on permanent basis in Railway Catering Service from any other source.

3. The applicants herein who too had filed writ petitions before the Hon'ble Supreme Court and their writ petitions, it is stated by Sri S. Agarwal, were disposed of in terms of T.I. Madhwan (Supra). Accordingly, it is submitted by the counsel for applicants, the applicants were entitled to get the benefits of the direction given by the Hon'ble Supreme Court in T.I

Madhwan case. A circular, it being Annexure No.5, also

came to be issued by the General Manager, Northern Railway, Hqrs. Office, Baroda House, New Delhi addressed to DRMs Allahabad, Lucknow, Moradabad, New Delhi and Ferozpur in respect of absorption of the Commission Agents, and vendors in terms of judgment aforesated.

It appears that before the judgment of Hon'ble Supreme Court was given effect to, a company registered under the Companies Act namely Indian Railway Catering and Tourism Corporation Ltd. came to be formed by the Railways. The Railway Board vide its circular dated 24/25.1.2002, which is the subject matter of impugnment in the OAs came to be issued stipulating therein that with immediate effect IRCTC will manage transfer of entire catering/vending services both mobile and static including Commission Vendors/bearers whether large or small on Indian Railways Zonal Railways, and further that 'Zonal Railways will assign all the existing catering/vending licenses 'as is where is' basis in favour of IRCTC! IRCTC was required to decide, in consultation with zonal Railways, the modalities of transfers of all these activities and execute necessary arrangements with the railways as envisaged in the guidelines contained in MOU signed between IR and IRCTC.

4. The circular aforesated provides that vending services should be started immediately and completed latest by 31st March 2002. The reliefs claimed herein is basically that circular aforesated in so far it includes the Commission Vendors/Bearers and direct their transfer of services in Tourism Corporation, New Delhi be quashed. The relief of mandamus restraining the respondents from terminating or transferring the services of the applicants has also been sought coupled with a direction to respondents to treat the applicants as group 'B' 'C' and 'D' employees discharging their duties and to absorb them in accordance with the judgment of Hon'ble Supreme Court in the case



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of T.I Madhwan Vs. Union of India & others (Supra).

5. The Railway Board, it appears, vide its circular dated 06.01.1992 bearing No.91/TGIII/600/15 has decided that all catering and vending activities and services of Zonal Railways, which had not been taken over by IRCTC would be transferred to IRCTC subject to certain conditions stipulated in the circular. One such condition relating to Commission Vendors is that the Commission Vendors/ catering services would function under the control of IRCTS. It would thus, appear that the change of control would not render the Commission vendors/bearer jobless. In a similar matter Hon'ble Delhi Court in in CMWP No. 14038/03 and in CMWP No.2502/03 of Indian Vendors Association Vs. Union of India & others while disposing of the aforesaid applications has made it clear that no change would be brought in unless and until the commission vendors were absorbed by the Railways.

6. Having regard to the said order passed by the Hon'ble High Court and the direction given by the Apex Court as also the circular dated 04.02.2003 issued by the Railway, we dispose of this application with a direction to respondents that unless and until commission vendors are absorbed by the Railway in terms of judgment of T.I Madhwan case, the applicants should be allowed to work and discharge their duties as commission vendors on same terms and conditions on which they have been working and no private agency would be brought in.

7. The QAs are disposed of in terms of the above direction with no order as to costs.

P. Deo
A.M.

P. Deo
V.C.

Asthana/-