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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.85 of 1987

Date of decision : 6th April, 1990.

1. Sri Nath Sahani, S/o Late Khatia Sahani
Cuttack Railway Station, Cuttack.
2. Sri Laddu Jali, S/o Late Maharaj Jali,
Bhubaneswar Railway Station, Bhubaneswar
3. Sri Damodar Jali, S/o Late Gopal Jali
Khurda Road, At/P.O. Khurda Road,
Dist. Puri.
4. Sri Puti Karriyya, S/o Late P. Gopal,
Puri Railway Station, Puri.
5. Sri Sengga Latchayya, S/o Late Krishna
Berhampur Town, Berhampur, Ganjam.
6. Sri Koromappa Appna, S/o Late Nararaya,
At/P.O. Palasa, Dist. Puri.

..... APPLICANTS

-Versus-

1. Union of India represented by General Manager,
South Eastern Railway, At-Garden Reach,
Calcutta-13.
2. Chief Commercial Superintendent,
South Eastern Railway, 14, Strand Road,
Calcutta-1.
3. Divisional Railway Manager,
South Eastern Railway, Khurda Road,
P.O. Jatni, District. Puri.
4. Divisional Commercial Superintendent,
South Eastern Railway, Khurda Road, P.O. Jatni,
Dist. Puri.
5. Divisional Personnel Officer,
South Eastern Railway,
Khurda Road, P.O. Jatni, Dist. Puri.

..... RESPONDENTS

For the Applicants

M/s. R. Mohanty,
A.C. Mohanty &
S.K. Ray, Advocates

For the Respondents

M/s. Ashok Mohanty &
Sisir Das, Advocates

C O R A M :

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgement ? Yes
2. To be referred to the Reporters or not ? Yes.
3. Whether Their Lordships wish to see the fair copy of the judgement ?

JUDGMENT

N. SENGUPTA, MEMBER (JUDICIAL) The applicants have prayed for direction to the Respondents to pay their salary and allowances as paid to the regular class IV employees of the Railways.

2. The undisputed facts are that the 18 applicants are licensed Porters working in different Stations of the South Eastern Railway and they carry luggages from the brakeman to the Parcel Office and from the Parcel office to the brakeman van. It is also undisputed that the porters engaged for such carrying of luggage are paid remuneration on hourly basis, the rates varying from one Station to another. These porters work on a rotational basis and in shifts of 8 hours or 12 hours and the payments are made at the end of the month in which they are engaged. It is also rather admitted that such licensed porters have worked for more than 120 days in a year. The grievance of the applicants is that they do the same work as other class IV employees of the Railways, so they should be paid salary and allowances equal to what is paid to

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regular Class IV employees and such of them as have worked more than 120 days in a year should be given regular employment in terms of Railway Boards Circular Letter No.E (NG II/80 C.L./25 dt.2.4.81, copy Annexure-7. The applicants have alleged that they are being paid remuneration @ Rs.10/- a day which is much less than the minimum wages payable to a worker.

3. The Respondents in their counter have taken the stand that the licenced porters take out licenses for carrying luggage of passengers travelling by the Railways, and they are given some work for loading and un-loading parcels in and from Brake van to augment their income, but they are not Railway men, nor do they come within the purview of the payment of Wages Act. The rotation of employment is made by the porters themselves for their own convenience and the Railway authorities do not have to do anything in the matter except noting the names of the persons working and the hours of they work. The essence of the Counter is that the applicants cannot get any relief.

4. Mr. A.C. Mohanti for the applicants has referred to Annexure-4 series and has contended that most of the porters who were engaged in carrying railway parcels worked more than 180 days in each of the years from 1982 to 1986 and as such have qualified themselves for being appointed on regular basis. It is of course true that casual labourers who work for more than six months in two successive years, if they are otherwise qualified, may qualify themselves for regular appointment, but the porters can not belong

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to that category. That apart, the applicants have not prayed for regular appointment.

5. From the averements in the application and the reply in counter it would be clear that the payments are made on the basis of hours the porters are engaged in carrying parcels from the Brake vans to the parcel office and vice versa. From Annexure-2 it would be found that for every hour of work the porters are paid Rs.1-25 i.e. for 8 hours they would get Rs.10/-. An ordinary labourer engaged for 8 hours in a day entitled to under the minimum wages Act to a minimum amount of Rs.15/-. It is not necessary to enter into a discussion as to whether to the Rly. Porters, the minimum wages Act would apply or not but it can not be disputed that no person employed to do manual work can be paid less than the minimum wages prescribed under that Act. The Railways are a government concern and they cannot be allowed to circumvent the provisions of that Act by resorting to technicalities or hair splitting arguments. It can safely be said that the porters are entitled to remuneration, on prorata basis, according to the rates prescribed under the Minimum Wages Act.

6. Mr. A.C. Mohanti has very strenuously contended that the applicants perform the same type of work as the other Class-IV employees of the Railways, hence they are entitled to same amount as the class IV employees draw. A porter is engaged on rotational basis, and during the period he is not engaged in carrying parcels, he has the liberty to engage himself otherwise, which ^a class IV employee can not. This is an essential difference to treat the porters as a class apart from the class IV employees of the Railways and the

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applicants cannot, therefore, claim the same wages as those of regular class IV employees.

7. In view of what has been stated above, though the applicants may not be entitled to the same wages as the regular class IV employees of the Railways, they cannot be paid at a rate less than the one prescribed under the minimum Wages Act. It may also be observed that having regard to arduous nature of their work and the fact that their services are required, at times, at odd hours, they deserve a better consideration. However, as it is neither the function of nor permissible for, this Tribunal to fix the rate of remuneration, the application is disposed of with the above observations.

No costs.



..... *Member*,
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.....
MEMBER (JUDICIAL)