

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.305/1996

Date of order : 30.9.2004.

Present : Hon'ble Mr. Sarweshwar Jha, Administrative Member
Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member

Kharagpur Station Porters Union
Represented by its Secretary & Ors.

.....Applicants

VS.

1. Union of India service through
the General Manager, S.E. Rly.,
Garden Reach, Calcutta-43
2. The Divisional Railway Manager,
S.E. Rly., Kharagpur,
P.O. & P.S. Kharagpur,
Dist. Midnapore
3. Sr. Divisional Commercial Manager,
S.E. Rly., Kharagpur,
P.O. and P.S. Kharagpur,
Dist. Midnapore
4. Sr. Divisional Personnel Officer,
S.E. Rly., Kharagpur,
Dist. Midnapore
5. Station Superintendent,
S.E. Rly., Kharagpur,
Dist. Midnapore

.....Respondents

For the applicants : Mr. A. Chakraborty, counsel
For the respondents : Mr. S. Choudhury, counsel

O R D E R

Per Mukesh Kumar Gupta, J.M.

42 applicants in the present case seek declaration that they are entitled to be regularised in the post of Parcel Porters on permanent basis as they alleged to have been working in the said capacity in the railways for the last 15-20 years. For the aforesaid claim, strong reliance has been placed on pay bills maintained by the respondents and the same were placed on record being Annexure 'A'. It was contended that Union approached several times to the authorities concerned for enhancement of their salary at the rate and scale which is admissible to casual labour having temporary status. Though the rates of Parcel Hamals of Kharagpur were revised from time to time,

the same was not implemented. Reliance was placed on 1995 Volume 2 SLJ 30(SC) in the case of National Federation of Railway Porters, Vendors and Bearers Vs. Union of India & Ors. wherein certain directions were issued to the Railway Administration to absorb railway parcel porters on permanent basis after carrying out necessary enquiry by the Assistant Labour Commissioner.

2. The respondents by filing their reply contested the applicants' claim by stating that none of the applicants have any employer-employee relation and they are holding licence on hourly rates of remuneration as determined by the appropriate State Government. It was further contended that the applicants are not railway servants and in absence of rules of recruitment for the licenced Porters, their claim for regularisation is not maintainable. Some licenced porters are being utilised for loading and unloading of parcels and booked luggages in the Parcel Office at Kharagpur station. The licenced Porters are engaged for handling railway parcels and they are not working as Parcel Hamals. The applicants are purely licenced porters , self-employed persons and had obtained licence on payment of licence fee for their profession. They are neither casual labourers nor are utilised and engaged as Parcel Hamals. Strong reliance was placed on 1998 SCC(L&S) 332(Union of India & Ors. Vs. Nanda Kumar & Ors.) to contend that licenced porters are not entitled to parity in wages with casual labourers having temporary status. It was also held that the said officials were not railway employees and had been handling parcels on the basis of agreements in terms of the licences that had been issued to them by the Railway Administration. Reliance was also placed on 1998 SCC(L&S) -97 (Bilas Sarkar & Ors. Vs. Union of India & Ors.) to contend that the appellants therein were working as independent persons for the Railway Administration and paid remuneration at a rate mutually agreed upon as per the terms of

contract; they could not be regarded as usual employees engaged by the Railway Administration and that there was no relationship of master and servant between them and the Railways.

3. We heard ld. counsel for the parties and perused the pleadings carefully.

A close perusal of Annexure 'A' on which strong reliance was placed by the applicants show that the same are the pay bills maintained by the respondents, and are the Acquittance Rolls of licenced porters and not of parcel porters, as contended by the applicants' counsel. We find no justification in the contention raised by the applicants that under the garb of licenced porters basically they are discharging the duties and functions of parcel porters. There is no material on record to show that the applicants had been discharging their functions and duties as parcel porters, as contended. The reliance placed by the applicants on the judgment of National Federation of Railway Porters, Vendors and Bearers has no application to the facts of the present case. As already noted the Acquittance Roll produced by the applicants are in respect of licenced porters. As such their claim that they were working as parcel porters is not tenable and, therefore, the said judgment has no application to this case. We find weighty reasons to accept the respondents' contention that the judgment referred to by them, as noted herein above are squarely applicable to the facts as there is no relationship of master and servant between the licenced porters and the Railway Administration.

4. In view of the discussions made herein above, we find no merit in the present application. Accordingly the same is dismissed. No order as to costs.



MEMBER(J)



MEMBER(A)