

04.

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

M.A. 210 of 1999 (O.A.1392/1997)

Present : Hon'ble Mr. Justice S.N.Mallick, Vice-Chairman

Hon'ble Mr. B. P. Singh, Administrative Member

PAWAN MONDAL & 36 OTHERS

VS

UNION OF INDIA & ORS

For the original petitioners : Mr. S.S.Roy, Sr. Counsel  
Mr. G.C.Ghosh, Counsel

For the railway respondents : Mr. R.N.Das, Counsel  
Mrs. K. Banerjee, counsel

Heard on : 31.03.2000 : Order on : 31.03.2000

O R D E R

S.N.Mallick, V.C.:

1. We have heard Mr. S.S.Ray, 1d. Sr. Counsel appearing with Mr. G.C.Ghosh, 1d. counsel for the petitioners and Mr. R.N.Das, 1d. counsel leading Mrs. K.Banerjee, 1d. counsel appearing for the railway respondents/OPs in M.A No. 211/99.

2. Mr. Ray prays for continuation of the interim order passed by this Tribunal on 8.10.99 till the disposal of the OA. This prayer is vehemently opposed by Mr. R.N.Das, 1d. counsel appearing for the respondents railway.

3. In OA, the petitioners, who are Parcel Porters, have prayed for the following reliefs :-

(b) To quash, rescind, set aside the circular No. Com/HB-5182 (Co-op) dated 8.9.97 upon a declaration that the same is void ab initio, after thought and mala fide and not binding upon the applicants.

(c) To direct the respondents to regularise the applicants as permanent railway servants with all benefits and service condition from the date since when they have been working under the railways in absence of the Contrator.

4. The impugned order dated 8.9.97 (annex-H) runs as follows :-

Sub : Handling of parcel packages through subsidy system.

Ref : CCM/CC's L/No. C. 298/o/Vol.XVII/Dev dated 9.8.97 & CCM(G)/CCS's L/No. C.236/o/1/Vol. XV/Dev dated 5.9.97

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In terms of CCM & CCM(G/CCS's above referred letters it has been decided to introduce subsidy system of your station instead of the existing system of parcel handling by the Co-operative Societies. Further the licensed porters should not be utilised for parcel handling work as they are granted licenses for carrying passengers luggage only. In case they are to be used for handling parcels they should surrender their Cooli licenses under intimation to this office."

5. The OA was admitted for adjudication on 27.1.1998, but no interim order was passed and it does not appear whether any interim order was prayed for there. The original petitioners filed MA 210/99 praying for an interim order staying the operation of an order dated 6.4.99 as per annexure-II to said MA which was passed by the respondent authorities during the pendency of the OA. This order dated 6/4/99 (Annexure-II), which is a subsequent order passed by the respondent authorities reads as follows :-

6.4.99

" Sub : Handling of parcel work.

" It is learnt that some problem is going on regarding handling of parcel work at your station. You are hereby advised to look into the matter and put the things in order so that the work of parcel handling is distributed uniformly among all those who are willing, strictly as per the rules of the subsidy system which is at present being followed at your station."

6. After hearing the 1d. counsel for the petitioners and the 1d. counsel for the respondents, we directed the respondents by order dated 8.10.99 not to give any effect or further effect to the impugned order dt. 6.4.99 till the next date. The said interim order is being continued from day to day. It is submitted by Mr. S.S.Ray, 1d. counsel appearing for the original petitioners that the interim order which was passed by this Tribunal on 8.10.99 and continued from day to day should not be vacated as it is against the respondents' own order dated 8.9.97 (annexure-H) to the OA. By the said order dated 8.9.97, the respondent authorities directed that the licensed porters should not be utilised for parcel handling job as they were granted licence for carrying passenger luggage only, and it was further clarified there that in case they were to be utilised for handling parcel, they should surrender their Cooli license under intimation to the office

concerned. The subsequent order dated 6.4.99 quoted above is ex facie inconsistent with their own order dt. 8.9.97. Furthermore, Mr. S.S.Ray has drawn our attention to an order dated 14.9.98 issued by the Sr. Div. Commercial Manager, Asansol, based on the Rly. board's order wherein it was advised to ensure that no licensed porters were being deployed for handling parcel consignments either directly by railways or through handling agencies (vide annexure-I to the rejoinder filed by the petitioners in MA 210/99). This letter is, however, subsequent to the order dated 8.9.97 as per annexure-H to the OA but before the impugned order dated 6.4.99 as per annexure-II to MA 210/99.

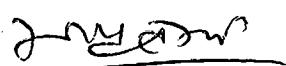
7. Mr. R.N.Das, 1d. counsel appearing for the respondents contends that without amending the OA, the petitioners cannot challenge a subsequent order dt. 6.4.99 passed by the respondent authorities.

8. We are, however, unable to agree with this contention of Mr. Das and we do not find any force in such contention as this is a subsequent event and this order has been passed after the application was admitted for adjudication. Such orders need not be challenged by amending the OA. This order may stand or fall on the final adjudication of the matter.

9. Mr. Das's another contention is that in the rejoinder filed by the original applicants in MA 210/99 many subsequent facts have been brought on record for which he should be allowed to file a supplementary reply. This, in our view, will only unnecessarily complicate the matter and perhaps this is not permissible. Furthermore, if the railway respondents want to controvert the subsequent facts alleged by the petitioners, they can do so by filing a supplementary reply to the OA on such prayer being made by them.

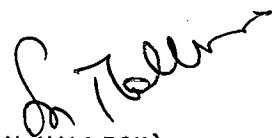
10. In view of the above, we dispose of the instant MA and direct that the interim order passed on 8.10.99 shall continue till the disposal of the OA.

11. Mr. S.S.Ray submits that the OA may be listed for final disposal. We find that the railway respondents have already filed their reply to the OA. However, Mr. Das prays for filing a supplementary reply. We allow the prayer. Supplementary reply may be filed two weeks before the next date. Supplementary rejoinder by the original petitioner may be filed within one week thereafter. The OA be listed for hearing on 4.7.2000 as a Specially Fixed matter.



(B.P.SINGH)

MEMBER(A)



(S.N.MALLICK)

VICE CHAIRMAN

jrc