

In The Central Administrative Tribunal
Calcutta Bench

OA 313 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member
Hon'ble Mr. G.S. Maingi, Administrative Member

Arjun Polen & 14 others

- VS -

- 1) Union of India, service through the General Manager, Eastern Railway, Cal-1.
- 2) Chief Personnel Officer, Eastern Railway, Fairlie Place, Calcutta-1.
- 3) General Manager, Eastern Railway, Fairlie Place, Calcutta-1.
- 4) Senior Superintendent, Printing & Stationery, Eastern Railway, Fairlie Place, Cal-1.
- 5) Assistant Superintendent of Printing & Stationery, Eastern Railway, F.Place, Cal-1.
- 6) The Assistant Manager, Printing & Stationery, Eastern Railway, Fairlie Place, Cal-1.
- 7) Bandel Handling Porters' Cooperative Society Ltd., P.O. & Vill. Naldanga, Bandel, Hooghly.
- 8) Young Bengal Cooperative Labour Contract Society Ltd., Calcutta-3.
- 9) Friend Cooperative Labour Contract & Construction Society Ltd., P.O. Garifa, Dist:24-Parganas.

.... Respondents

For the Applicants : Mr. Samir Ghosh, Advocate

For the Respondents : Ms. U. Bhattacharya, Advocate.

Heard on : 24-8-2000

Date of Order : 24-8-2000

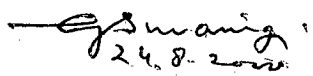
ORDER

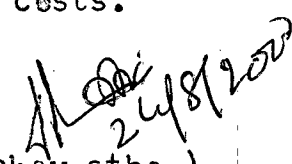
D. PURKAYASTHA, JM

Heard Id. Advocates of both the parties. Id. Advocate Mr. Ghosh, appearing on behalf of the applicants, submits that this case can be disposed of in the light of the judgement passed by the Hon'ble Apex Court reported in JT 1998 (3) S.C. 540 (Union of India & Ors. -Vs- Subir Mukherji & Ors.) where the Hon'ble Apex Court held that - there is no denial on the part of the appellant Nos.1 to 5 that the work which respondents have been doing is of perennial nature. Even

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otherwise the directions issued by the CAT in its order dated 13.3.1997 (OA.No.1045 of 1995) have given enough discretion to the Eastern Railways to absorb them as regular Group D employees bearing in mind the quantum of work available on perennial basis and subject to their fitness. In our opinion the directions contained in the order dated 13.3.1997 passed by the CAT are quite fair in the facts and circumstances of the case". It appears that the judgement has been passed by the Hon'ble Apex Court stating that similar issue, i.e. an SLP was filed by the Railway before the Hon'ble Supreme Court on 28.2.1997 against the order of the Hon'ble Tribunal. The said SLP has since been disposed of by the Hon'ble Supreme Court on 3.4.1997 ordering "It will be for the concerned Railway to take such measure as they may consider appropriate in this regard. The Hon'ble Supreme Court further ordered "Heard both sides. For the reasons stated above leave is granted. The impugned order of the Tribunal is set aside and the appeal is allowed in the same terms". The respondents crave leave to produce the said judgement of the Hon'ble Supreme Court at the time of hearing through their ld. advocate. Therefore, we find that judgement of the Hon'ble Tribunal (Subir Mukherjee & Ors. -Vs- Union of India & Ors.) has been upheld by the Hon'ble Apex Court in a judgement passed in Civil Appeal No.1057 of 1998 (Union of India & Ors. -VS- Subir Mukherjee & Ors.) reported in (JT 1998 (3) S.C. 540. So, we are of the view that if the applicants are similarly circumstanced and guided by such rules, that judgement can be applied to them and non-extension of benefit to the applicants amounts to violation of articles 14 and 16 of the Constitution. In view of the aforesaid circumstances, we dispose of the application with a direction upon the respondents to consider the same in the light of the judgement of the Hon'ble Apex Court i.e. U.O.I. & Ors.-Vs- Subir Mukherjee & Ors. and to grant them appropriate relief in accordance with the rules within three months from the date of communication of this order. No order as to costs.


(G.S. Maingi)
Member (A)


(D. Purkayastha)
Member (J)