

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 22nd October, 2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

1. ORIGINAL APPLICATION NO. 363/2008
With
Misc. application No. 308/2008

1. Kailash Chandra son of Shri Tunda Ram Meena aged about 34 years, resident of Tehsil Kathumar, District Alwar.
2. Ramesh Chandra son of Shri Ram Swaroop, aged about 31 years, resident of Gram Sita Ram Nagal, Tehsil Kathumar, District Alwar.
3. Veer Singh son of Shri Tunda Ram Meena, aged about 27 years, resident of Manya Ka Bas, Tehsil Kathumar, District Alwar.
4. Indra Kumar son of Shri Tunda Ram Meena, aged about 27 years, resident of Manya Ka Bas, Tehsil Kathumar, District Alwar.

.....APPLICANTS

(By Advocate: Mr. Ashok Joshi)

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, DRM Office (Northern Western Railway), Jaipur.
3. The Senior Divisional Commercial Superintendent (NWR), Jaipur.
4. The Station Superintendent, Kherli Railway Station (Northern Western Railway), Kherli District, Alwar (Rajasthan)

.....RESPONDENTS

(By Advocate:-----)

12

2. **ORIGINAL APPLICATION NO. 368/2008**
With
Misc. Application No. 311/2008

1. Chittar Mal son of Shri Sita Ram aged about 50 years, resident of Gram Toda Laxmangarh, District Alwar.
2. Harpal Singh son of Shri Bhorilal, aged about 50 years, resident of Gram Subdabli, Tehsil Baswa, District Dausa.
3. Khalratilal son of Shri Bheema Ram aged about 48 years, resident of Gram Subdabli, Tehsil Baswa, District Dausa.
4. Hari Ram son of Shri Sohan Lal aged about 40 years, resident of Gram Toda Nagar, Tehsil Laxmangarh, District Alwar.
5. Mohan Lal son of Shri Ram Niwas aged about 37 years, Gram Todanagar, Tehsil Laxmangarh District Alwar.
6. Kamaljeet Singh son of Shri Narendra Singh, aged about 32 years, resident of Daskuta Gall No. 11, Alwar.

.....APPLICANTS

(By Advocate: Mr. Ashok Joshi)

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur.
2. The Divisional Railway Manager, DRM Office (Northern Western Railway), Jaipur.
3. The Senior Divisional Commercial Superintendent (NWR), Jaipur.
4. The Station Superintendent, Kherli Railway Station (Northern Western Railway), Kherli District, Alwar (Rajasthan)

.....RESPONDENTS

(By Advocate:-----)

ORDER (ORAL)

Since similar issue is involved in both the OAs, we have decided to dispose of OA No. 368/2008 alongwith OA No. 363/2008.

2. The applicant has filed this OA thereby praying for the following reliefs: -

- "(i) That the respondents be directed to absorb the appellant in Group 'D' service on regular basis at Alwar Railway Station..
- (ii) That the respondents be directed to give them all benefits which have been granted to other regular parcel porter.
- (III) Any other relief which this Hon'ble Tribunal deems fit and proper in favour of the appellant may kindly be passed."

3. Briefly stated, facts of the case are that applicants were appointed as Railway Parcel Porter at Railway Station Alwar through Contractor Society. As per averments made in Para No. 4 (2) of the OA, the applicants have stated that respondents authority has issued the contract to the different contractors and these contractor societies further engaged contract labour on different railway stations. Thus from the averments made in the OA, it is evident that applicants were engaged as Casual labour by the Contractor Society and not by the Railway.

4. When the matter was listed on 15.09.2008, this Tribunal after hearing the learned counsel for the applicant observed that prima-facie this Tribunal has got no jurisdiction to entertain the matter as admittedly the applicants have been engaged by the contractor and the Railway authority cannot be said to be principal employer of the applicants and the matter was adjourned on the request of the learned counsel for the applicant on 01.10.2008. On 01.10.2008 none appeared on behalf of the applicant and the matter was adjourned to

22.10.2008 with further observation that no further adjournment will be granted on the next date of hearing. Even today none is present on behalf of the applicant. Thus In terms of Rule 15 of CAT Procedure Rules, 1987, we have proceeded to decide the OA on merit rather not dismissing the OA in default.

5. As can be seen from the facts, as stated above, since the applicants were engaged by the Contractor and not by the Railway authority, no relief can be granted to the applicants. Further even otherwise also, the Apex court has repeatedly held that appointment to the post is to be made after advertising the same and considering the cases of all the eligible candidates in accordance with recruitment/promotion Rule. Even on this ground also the applicants are not entitled to any relief regarding their absorption in Railway Service.

6. For the foregoing reasons, both the OA are dismissed no order as to costs.

7. In view of the order passed in the OA, no order is required to be passed in the MAs also, which are also dismissed.

(B.L. KHATRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHQ