

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO(s). 179 OF 2010

GANGA PRASAD & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

W.P.(C)No.181/2010, W.P.(C)No.81/2011,
W.P.(C)No.359/2011, W.P.(C)No.92/2012,
W.P.(C)No.239/2013,
I.A.NO.1-2 IN IA 33&34 AND I.A.NO.38 In W.P.(C)No.433/1998,
I.A. NOS.1-3 IN W.P.(C)NO(S).530/2000, 262/2002 &
I.A. NOS.1-2 IN W.P.(C)NO(S).640/2007,
W.P.(C)No.899/2013, W.P.(C)No.913/2013

O R D E R

W.P. NO.179/2010

Application for intervention is allowed.

Learned counsel for the petitioners stated that the petitioners had worked as Coal Handling Porters from 1984 to 1994, as per the Report of the Regional Labour Commissioner (Central) Lucknow.

Petitioners now are claiming absorption as Group 'D' employees on the basis of the decision taken by the Regional Labour Commissioner, after conducting an enquiry.

Learned counsel appearing for the petitioners brought to our knowledge a judgment of this Court in A.I. Railways Parcel & Goods Porters' Union v. Union of India and others, reported in (2003) 11 SCC 590 as well as order of this Court dated 26.02.2013 passed in W.P. (C) No.640 of 2007 and claimed similar benefits.

Learned senior counsel appearing for the Union of India and Ministry of Railways is not in a position to submit, whether the Railways have considered the claims of the writ petitioners. Further he has also stated that there is no vacancy available for absorption of the writ petitioners. Further, it is also their stand that the petitioners were never employed by the Railways but at best they could have been employed by an independent contractor. Hence they have no right to claim absorption.

Since no orders have been passed by the Railways so far, we feel it appropriate to dispose of the writ petition with a direction to the Railways to pass appropriate orders, in accordance with law, within a period of four months. The previous orders passed by the Court also be borne in mind.

Ordered accordingly.

We make it clear that we are not expressing any opinion on the merits of the case.

I.A. NOS.1-3 IN W.P.(C)NO(S).530/2000, 262/2002 & I.A. NOS.1-2 IN W.P.(C)NO(S).640/2007

Applications for substitution are allowed.

These I.As have been preferred for seeking a direction to Railway Administration to absorb the applicants on the basis of the judgment in A.I. Railways Parcel & Goods Porters' Union v. Union of India and others, reported in (2003) 11 SCC 590 as well as orders passed by this Court dated 17.11.2009 passed in Writ Petition No.640 of 2007 etc., reference was specifically made to paragraph 10 of the said judgment.

In such circumstances, we dispose of these I.As with a direction to the Railways to pass appropriate orders, in accordance with law, within a period of four months.

We make it clear that we are not expressing any opinion on the merits of the case.

W.P.(C)No.181/2010, W.P.(C)No.81 & W.P.(C)No.359/2011,
W.P.(C)No.92/2012, W.P.(C)No.239, 899 & 913/2013,
I.A.NO.1-2 IN IA 33 & 34 AND I.A.NO.38
In W.P.(C)No.433/1998

Applications for intervention and impleadment are allowed.

Learned counsel for the petitioners stated that the petitioners had worked as Parcel and Goods Porters. They are claiming absorption as Group 'D' employees. They have come up with this writ petition for a direction to absorb them against Group 'D' posts in the concerned Railways.

Learned counsel appearing for the petitioners brought to our knowledge a judgment of this Court in A.I. Railways Parcel & Goods Porters' Union v. Union of India and others, reported in (2003) 11 SCC 590 as well as order of this Court dated 26.02.2013 passed in W.P. (C) No.640 of 2007 and claimed similar benefits.

Learned senior counsel appearing for the Union of India and Ministry of Railways is not in a position to submit, whether the Railways have considered the claims of the writ petitioners. Further he has also stated that there is no vacancy available for absorption of the writ petitioners. Further, it is also their stand that the petitioners were never employed by the Railways but at best they could have been employed by an independent contractor. Hence they have no right to claim absorption.

Since no orders have been passed by the Railways so far, we feel it appropriate to dispose of the writ petition with a direction to the Railways to pass appropriate orders, in accordance with law, within a period of four months. The previous orders passed by the court also be borne in mind.

Ordered accordingly.

All other I.As are disposed of accordingly.

We make it clear that we are not expressing any opinion on the merits of the case.

.....J.
[K.S. RADHAKRISHNAN]

.....J.
[A.K. SIKRI]

NEW DELHI;
NOVEMBER 13, 2013

ITEM NO.1 COURT NO.8 SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO(s). 179 OF 2010

GANGA PRASAD & ORS. Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(WITH APPLN.(S) FOR INTERVENTION AND OFFICE REPORT)
(FOR FINAL DISPOSAL)

WITH

W.P.(C)No.181/2010 (WITH APPLN.(S) FOR INTERIM DIRECTIONS AND IMPLEADMENT
AS
PARTY RESPONDENT AND OFFICE REPORT) (FOR FINAL
DISPOSAL)

W.P.(C)No.81/2011 (WITH APPLN.(S) FOR FURTHER DIRECTION AND IMPLEADMENT AS
PETITIONER AND OFFICE REPORT) (FOR FINAL
DISPOSAL)

W.P.(C)No.359/2011 (WITH APPLN.(S) FOR DIRECTIONS AND OFFICE REPORT)
(FOR FINAL DISPOSAL)

W.P.(C)No.92/2012 (WITH APPLN.(S) FOR DIRECTIONS AND OFFICE REPORT)
(FOR FINAL DISPOSAL)

W.P.(C)No.239/2013 (WITH OFFICE REPORT) (FOR FINAL DISPOSAL)

I.A.NO.1-2 IN IA 33&34 AND I.A.NO.38 In W.P.(C)No.433/1998
(FOR DIRECTIONS AND EXEMPTION FROM FILING O T AND
EXTENSION OF TIME AND OFFICE REPORT)
(FOR FINAL DISPOSAL)

I.A.NO. 1 IN CONMT.PET.(C)No.7/2012 In W.P.(C)No.433/1998 (FOR
PREL.HEARING)
(FOR REVIVAL OF CONTEMPT PETITION AND OFFICE
REPORT)
(FOR FINAL DISPOSAL)

I.A.NO. 1-3 IN W.P.(C)No(s).530/2000, 262/2002 &
I.A.NO. 1-2 IN W.P.(C)No(s)640/2007
(WITH APPLN.(S) FOR DIRECTIONS AND EXEMPTION FROM FILING
O T AND
IMPLEADMENT AND OFFICE REPORT)

W.P.(C)No.899/2013
W.P.(C)No.913/2013 (WITH OFFICE REPORT)

Date: 13/11/2013 These Petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For the parties

Mr. J.S. Attri, Sr. Adv.
Ms. Sukhbir Bajwa, Adv.
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Mr. Venkateswara Rao Anumolu, Adv.

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Mr. R.D. Upadhyay, Adv.

Mr. Debashish Bharukha, Adv.

Mr. Arvind Kumar Sharma, Adv.

Mr. Vivek Gupta, Adv.

Mr. B. Krishna Prasad, Adv.

Mr. D.S. Mahra, Adv.

Mrs. Anil Katiyar, Adv.

Ms. Sushma Suri, Adv.

Ms. Geetanjali Mohan, Adv.

Mr. Vinay Garg, Adv.

UPON hearing counsel the Court made the following
O R D E R

I.A.NO. 1 IN CONMT.PET.(C)No.7/2012
In W.P.(C)No.433/1998

We are sorry to note that learned counsel appearing for the Railways are not in a position to state as to whether they have passed any orders on the basis of the various directions given by this Court.

As a last chance, learned senior counsel sought time till 18.11.2013 to ascertain as to whether any orders have been passed on the basis of various directions given by this Court.

List on 18.11.2013, as prayed.

REST OF THE MATTERS

Disposed of, in terms of the signed order.

1 (Signed order is placed on the file)