

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Tapabrata Chakraborty
&
The Hon'ble Justice Partha Sarathi Chatterjee

WPCT 117 of 2022

Union of India & Others
Versus
Sunil Kumar Mondal & Others

For the Petitioners : Mr. Soumak Bera.

For the Respondents : Mr. Gopal Chandra Ghosh,
Mr. Raj Krishna Mondal,
Ms. S. Saha,
Ms. Ishita Saha.

Hearing is concluded on : 12th December, 2024

Judgment On : 7th January, 2025

Partha Sarathi Chatterjee, J.

1. The present writ petition challenges the legality of the order dated February 21, 2022, passed by the learned Tribunal in Original Application (OA) No. 1517 of 2015. In the aforementioned order, the learned Tribunal determined that the original applicants/respondents were identically circumstanced to the applicants in OA Nos. 158 of 1997, 1392 of 1997, and 1400 of 1997. Consequently, the Tribunal directed the petitioners to extend the benefits of the order dated

24.08.2000, passed in those original applications, which had been affirmed by a coordinate Bench of this Court in WPCT Nos. 124-126 of 2001 and subsequently by the Hon'ble Supreme Court in Civil Appeal Nos. 21911-2193 of 2004, by absolving the applicants as regular railway parcel porters, subject to the scrutiny of their records by a committee to be formed for this purpose.

2. Before addressing the core issue involved the present writ petition, it is essential to first outline the key facts that led to the filing of this petition, which are as follows:

- a) The original applicants/respondents (hereinafter referred to as the respondents) claim to have initially worked as licenced porters at the Malda Town Railway Station. They earned their livelihood by carrying passengers' luggage within the station in exchange for a license fee paid to the railway authorities. At that time, the passengers would directly pay the porters for their services. The Railway authority issued brass licenses to the porters, granting them free access to the station premises.
- b) After several years of service as licenced porters, the Railway began utilizing the services of the respondents for loading, unloading, and transporting railway parcels, as well as other departmental duties. As a result, the Railway authorities stopped renewing their licenses as licenced porters and instead issued identity cards to the respondents, designating them as parcel porters with their names and other relevant details.
- c) The Railway authorities maintained an attendance register for the respondents, where they would sign or put their thumb impressions to record their attendance and draw their wages.
- d) The respondents submitted representations requesting regularization of their services as parcel porters. Upon receipt of these representations, the Railway authorities introduced a subsidy system to handle parcel-related

work at various stations and began paying a lump sum amount for such work, aiming to avoid the responsibility of absolving the respondents. From 2009 to 2011, the respondents were paid their wages monthly by the commercial division.

- e) The respondents submitted representations on 26th September 2014, 14th November 2014, and 9th January 2015 to the Sr. Station Superintendent, Malda Town Railway Station, requesting payment of their wages since 2011 and the regularization of their services. It is noteworthy that similarly situated parcel porters at other stations, such as Bhagalpur, Sahibganj, and Jamalpur, within the same Malda Division, had been regularized. Despite submitting these representations to petitioner no. 2, no effective action was taken by any of the petitioners. Thus, being the situation, the respondents were compelled to approach the learned Tribunal with the OA 1517 of 2015.
 - f) As noticed earlier, the learned Tribunal disposed of the OA concluding that the respondents are similarly situated with that of the applicants of OA Nos. 158 of 1997, 1392 of 1997, and 1400 of 1997 and directed the petitioners to absolve them as regular parcel porters subject to scrutiny of their records.
3. Aggrieved by that order, the Union of India and its functionaries, the petitioners herein, have filed this writ petition.
 4. Mr. Bera, learned advocate for the petitioners, contended that the learned Tribunal erred in holding that the respondents are similarly situated with the applicants in the above-referred original applications. He argued that the applicants in those cases were initially engaged through contractors, and after the contract was terminated, they formed a cooperative. He submitted that they used to work as

parcel porters from the outset, whereas the respondents herein were originally licensed porters who carried passengers' luggage and received wages directly from the passengers. Referring to page 30 of the writ petition and citing the example of one Chhotu Kumar Roy, respondent no. 36, who, according to Mr. Bera, received his license from his father, he claimed that some respondents inherited their licenses from their predecessors. Mr. Bera also argued that the officer who issued the identity cards was a probationary employee and not authorized to issue such cards to the respondents. Furthermore, he submitted that the identity cards were issued in an improper format and such official denied existence of attendance registrar of parcel porters. Additionally, he claimed that the signatures on the attendance register were forged. He argued that a policy decision was adopted by the Railways stating that porters who wanted to work as parcel porters had to surrender their porter licenses, but the respondents did not surrender such licenses which clearly indicate that the respondents had been working as licenced porters.

5. In response, Mr. Ghosh countered Mr. Bera's submission by contending that during the hearing of those three original applications, the Railway authorities had raised similar issue that the applicants in those cases were licenced porters, not parcel porters. In support of his argument, he drew our attention to paragraph 9 of the order dated 24.08.2000, where the Railway authority raised this plea to defend the claim for regularization advanced by the applicants in those two original applications. He argued that if the respondents were working as licensed porters, they would have been required to pay the license fee. However, the learned Tribunal had given the Railway authorities ample opportunity to produce receipts for such payments and other documents to substantiate their claim but they failed to do so. Referring to certain documents appended to the Original Application

(OA), Mr. Ghosh contended that these documents clearly show the Railway authority had made payments to the respondents, suggesting that they worked as parcel porters.

6. Therefore, based on the submissions and pleadings of the respective parties, the central question which falls for resolution is whether the learned Tribunal erred in treating the respondents as similarly situated to the applicants in OA Nos. 158 of 1997, 1392 of 1997, and 1400 of 1997, and in directing the petitioners to extend the benefits of the order dated 24.08.2000 to the respondents.
7. The order under challenge in this writ petition shows that the learned Tribunal noted that the identity cards (Annexure-A to the OA), signed by the then Station Manager, were issued to the respondents designating them as parcel porters. The attendance registers (Annexure-A2 to the OA), signed by the Commercial Supervisor (Parcel) of Eastern Railway, Malda Town, contain the names of the respondents, including Chhotu Kumar Roy. Be it noted in some documents, Chhotu Kumar Roy was referred as Chhotu Kumar Mondal also. Additionally, other railway documents appended to the OA also contain the names of the respondents, including Chhotu, as parcel porters, and those documents show that the respondents were paid monthly from 2009 to 2011 and thereafter, the subsidy payment system was introduced. The Tribunal observed that the then Station Manager confirmed his signature and stamp on the documents, noting that he had worked temporarily as Station Manager at Malda Railway Station before his confirmation. The Railway authority, however, failed to produce any scrap of paper, showing that licenses for the respondents to act as licensed porters were granted or renewed since they began working as parcel porters or the respondents

have paid licence fee to act as licenced porters since they began working as parcel porters.

8. The learned Tribunal also noted that the Railways had acknowledged that the applicants had been working in the loading and unloading of parcels at Malda Station. Consequently, the Divisional Commercial Manager of Railways requested the Divisional Railway Manager, Eastern Railway, Malda, to take appropriate steps for their payment. The Tribunal further observed that in similar cases at other stations within the same division (Malda), the Railways had taken a similar stand. In this context, the Tribunal concluded that the respondents had been working as parcel porters under the direct control of Railway officials, and that such work was of a perennial nature. It was deemed irrelevant whether the respondents initially worked under a contractor and later under a cooperative society, as the fact remains that, like the applicants in the three original applications, the respondents had been working as parcel porters for a long time under the direct supervision of Railway officials. After assessing the evidence and materials on record, the learned Tribunal concluded that the respondents are similarly situated to the applicants in OA Nos. 158 of 1997, 1392 of 1997, and 1400 of 1997. Accordingly, the Tribunal directed the petitioners to extend the benefits of the order dated 24.08.2000, passed in those original applications, which had been subsequently affirmed by a coordinate bench of this Court and the Hon'ble Apex Court, subject to the scrutiny of the respondents' records. Judicial propriety demands that the findings arrived at on the rudiments of similar facts by another Court should be given respect and should be followed. In view thereof, we find no error or jurisdictional error in the order under challenge in this writ petition, nor do we believe that any substantial miscarriage of justice has

occasioned as a result of the Tribunal's decision. Therefore, no interference is warranted in this writ petition.

9. As a result, the writ petition is dismissed, however, without any order as to the costs.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)