

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1470 OF 2002

Sarojkumar Pandey ...Petitioner
Versus
The General Manager
Western Railway and ors. ...Respondents

Mr. S.V. Marne for the Petitioner.
Mr. Suresh Kumar for the Respondents

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE OF RESERVING THE JUDGMENT : 08.03.2018
DATE OF PRONOUNCING THE JUDGMENT : 14.06.2018.

JUDGEMENT:

1] This petition was tagged along with Writ Petition No. 2245 of 2001, since, there is no dispute that the present petitioner is similarly placed to that of Shantiram Bhatt, the petitioner in Writ Petition No. 2245 of 2001. In fact, this position was made clear whilst issuing Rule in the present petition on 01.08.2002.

2] The order dated 1.08.2002 made by the Division Bench comprising Mr. R.M. Lodha and Mr. D.B. Bhosale, JJ., as their Lordships then were, reads as follows:

*"1. Heard.
2. No reply affidavit has been filed by the*

respondents despite the fact that Mr. Suresh Kumar has been appearing for the respondents and the matter was adjourned on 18th July, 2002 for today.

3. Learned counsel for the petitioner invited our attention to the order passed by this Court in Writ Petition No. 2245 of 2001 between Shantiram Bhatt Vs. Union of India and Others. She submitted that present petitioner is similarly placed to that of Shantiram Bhatt. This fact has not been disputed by Mr. Suresh Kumar, learned counsel for the respondents. Hence Rule.

4. Mr. Suresh Kumar, learned counsel waives service for the respondents.

5. Rule on stay. Returnable after eight weeks.

6. In the meanwhile we direct the respondents to pay to the petitioner due commission on monthly sales, if the petitioner is presently working as a Commission Vendor."

3] The only distinction between the two petitions is that Mr. Shantiram Bhatt, the petitioner in Writ Petition No. 2245 of 2001 had instituted proceedings before the Central Administrative Tribunal (CAT), Mumbai questioning non-regularisation of his services as a Commission Vendor and the present petitioner had not instituted any such proceedings before the CAT. The present petitioner had, however, moved the Assistant Labour Commissioner (Central) on 28.09.2000. The respondents, however, submitted a reply dated 02.01.2002 to the Assistant Labour Commissioner (Central) stating that the personal department had determined that the petitioner was only a

Helper and not a Commission Vendor. Soon thereafter, i.e.. in April 2002, the petitioner instituted the present petition. Since, the case of the petitioner is similar to the case of the Shantiram Bhatt, the petitioner in Writ Petition No. 2245 of 2001, Rule was issued in this petition and the same was directed to be taken up along with Writ Petition No. 2245 of 2001.

4] By detailed order made today, we have allowed Writ Petition No. 2245 of 2001. Since, there is no dispute that the petitioner is similarly placed, we also allow this petition in the same terms. This means that the petitioner is to be regularised as Commission Vendor from 1983. However, such regularisation will not entitle the petitioner to any emoluments or monetary benefits except that such period will count for purposes of computation of terminal/pensionary benefits as may be available under the Rules.

5] Rule is disposed of in the aforesaid terms. There shall be no order as to costs.

6] The pending notice(s) of motion, if any, do not survive and the same are also disposed of.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)