

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 1945 of 2022

Mithun Malakar & Ors.
Vs.
Union of India & Ors.

Mr. Kushal Chatterjee
Mr. Imdadul Hoque
.... For the Petitioners

Mr. Naba Kumar Das
... For the South Eastern Railway.

Affidavit of service filed in Court today is taken on record.

The court fees paid is found to be sufficient.

The petitioners claim to be Group “D” staff engaged as contract laboures by the South Eastern Railway Authorities. The petitioners say that as Group “D” staff, the petitioners are performing the same nature of work i.e. perennial nature of work as performed by the parcel porters engaged in the Railways. The petitioners therefor say that their case for regularization should also be considered in view of the provisions of Contract Labour (Regularization and Abolition) Act, 1970 (hereinafter referred to as 1970 Act) in the light of the judgment of the Hon’ble Supreme Court in regard to the regularization of service of Parcel and Goods Porters reported in (2018) 18 SCC 168 (Rambhajan Das v. Union of India). The petitioners also refer to an order of the Hon’ble Supreme

Court dated 20th November, 2020, wherein the case of the Railway Parcel and Goods Porters was considered. The Hon'ble Supreme Court in the said order has observed as follows:-

“Insofar as any other category of persons is concerned, it is for them to work out their legal remedies, if any, in accordance with law”.

The petitioners, therefor, have approached this Court to seek their legal remedies, in accordance with law.

After hearing the parties and considering the materials on record, I direct the petitioners to approach the respondent no.4, being the Deputy Chief Labour Commissioner, with all the issues raised in this writ petition as may be permissible in law, within a period of three weeks from date.

In the event, the petitioners approach the respondent no.4 within such timeframe, the respondent no.4 shall consider the representation and/or application so to be made by the petitioners within a period of eight (8) months from the date of such representation and/or application being made. The representation and/or application shall be disposed of by a reasoned order after affording the petitioners a reasonable opportunity to represent by observing the prevalent Covid-19 protocol. The reasoned order shall be communicated to the petitioners within fifteen days from the date of passing of the same.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavit, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)