

09.09.2022
DL-21
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8617 of 2022

Dipak Rajbhar Ors.
Vs.
Union of India & Ors.

Ms. Debanjana De,
Mr. Debasis Das
.....for the petitioners.

Mr. Amitabha Nayak
.....for the respondent nos.1 to 3.

Mr. Jayabrata Mukherjee,
Ms. Sukanya Das
.....for the respondent no. 7.

Report in the form of an affidavit by the respondent nos.1 to 3 as directed by the order dated 8th August, 2022 filed in Court today be retained with the records.

The petitioners in the writ petition claim to be the Coach Cleaners and/or Safaiwalas at Liluah Sorting Yard under Eastern Railways. They claim for absorption by way of a writ of mandamus to be issued on the Labour Commissioner to take appropriate steps in accordance with law to facilitate the absorption process of the writ petitioners.

Ms. De, learned counsel, appearing for the writ petitioners submits that an order has been passed by a coordinate Bench of this Hon'ble Court on December 20, 2021 whereby the Parcel Porters who are also contract labourers with the South Eastern

Railway Authorities were directed to approach the Deputy Chief Labour Commissioner with their representation already made or to be made and the Deputy Chief Labour Commissioner/respondent no.4 was directed to consider the representation of the petitioners.

Mr. Nayak, learned counsel, appearing for the Railways/respondent nos.1 to 3 relies on the judgment passed by the Apex Court in Writ Petition (Civil) No.52/2016 and also CONMT. PET. (C) No.701/2020 passed in W. P. (C) No.1360/2019 in support of his contention that the directions given by the Hon'ble Apex Court was confined to the category of employees of Railway Parcel and Goods Porters and not to any other category of employees though some may have been considered inadvertently.

Having considered the rival submissions of the parties and materials placed on record, this Court is of the view that the writ petitioners have come up before this Hon'ble Court for consideration of their case on its own merit.

In the circumstances, the respondent nos.1 to 4 are directed to consider this writ petition as the representation of the writ petitioners as may be permissible in law, if they approach the Deputy Chief Labour Commissioner within four weeks from date.

In the event the writ petitioners approach the respondent no.4 within such timeframe, the respondent no.4 shall consider the representation of the writ petitioners within a period of ten weeks from the date of such representation being made before him.

The representation in the form of this writ petition shall be disposed of by a reasoned order after affording the petitioners a reasonable opportunity of hearing and the same shall be communicated to the writ petitioners within two weeks from the date of passing of the same.

Nothing further remains to be adjudicated in this writ petition. The writ petition, being **WPA 8617 of 2022**, is **disposed of** without any order as to costs.

Since affidavits are not called for, all the allegations made in the writ petition are deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)