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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7180 OF 2021

Shrinivas Sainna Kamshetty & Ors. .. Petitioners
Vs.
The Union of India & Ors. .. Respondents

Mr. S. G. Kudle for petitioners.
Mr. A. D. Shetty a/w Mr. P. Khosla for respondents.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.
DATE : NOVEMBER 30, 2022**

P.C.:

1. The petitioners, claiming to be engaged as "Box Boys" by the Chief Crew Controller, Central Railway, approached the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter "the Tribunal", for short) with an original application (Original Application No. 210/231/2021) seeking regularization of their services.

2. By a short order dated 12th March, 2021, the Tribunal has dismissed the original application with the following observations: -

"4. On perusal of this OA, we find that the applicants have not brought on record even a single order of their engagement as casual workers on daily wages basis or on contract basis. The applicant's counsel has been unable to point out any such order, he only points out to payment of some petty amounts to these applicants on some occasions for having worked for a few hours on informal arrangement, and pleads that they should be regularized in service.

5. However, in absence of any specific order of the respondents for engagement of the applicants as casual workers or workers on contract, no employer-

employee service relationship seems to have been created in favour of the applicants. Therefore, this OA does not have any merit to be admitted for adjudication on service matters of the applicants.”

This order of the Tribunal is under challenge in this writ petition.

3. We have looked into the original application that was filed before the Tribunal. We share the view expressed by the Tribunal that no engagement letter was part of the original application.

4. However, in the light of paragraphs 21 and 24 of the decision of the Supreme Court reported in (2006) 2 SCC 482 (**Union Public Service Commission vs. Girish Jayantilal Vaghela and Ors.**), we are of the view that the Tribunal was not the appropriate forum for the petitioners to approach. They are neither holders of civil posts nor part of the civil service of the State. They did not acquire any right to post.

5. In such circumstances, the forum that could have been approached by raising an industrial dispute is the appropriate Industrial Tribunal/Labour Court under the Industrial Disputes Act, 1947 (hereafter “the 1947 Act”, for short).

6. Having regard thereto, we dispose of the writ petition granting liberty to the petitioners to pursue their remedy before the appropriate forum under the 1947 Act. No costs.

7. All contentions are left open.

(ABHAY AHUJA, J.)

(CHIEF JUSTICE)