

IN THE HIGH COURT OF ANDHRA PRADESH::AMARAVATI
(Special Original Jurisdiction)

MONDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR



PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 20354 OF 2002

Between:

1. P.Raja Rao, son of Ramxulu, aged 36 years.
2. B.Reddaiah son of Venkataramaiah, aged about 49 years.
3. T.Lakshman Rao son of Kotaiah, aged 34 years.
4. Y. Mukunda Rao son of Srinivasa Rao, aged 27 years.
5. T.Ravichander son of Kotaiah, aged 33 years.
6. B. Durgamba wife of Gopala Rao, aged 45 years.
7. G. Venkaiah son of Venkatyeswarlu, aged about 49 years.
8. P. Suri Babu son of Jaggappa, aged 44 years.
9. N.V.Ramana son of Sitharamaiah, aged 32 years.
10. P. Durgamba wife of Narayana, aged 40 years.
11. G.Koteswara Rao son of Satyanarayana, aged 49 years.
12. K.Koteswara Rao son of Venkateswarlu, aged 28 years.

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Petitioners 1 to 13 are Commission Vendors, Catering Department,
Vijayawada Division, South Central Railways, Vijayawada.

13. Sd. Gafoor son pf Hussain, aged 56 years.
14. K. Ramu son of
15. Parasuram, aged 52 years.
16. M. Samba siva Rao son of Yellaiah, aged 33 years.
17. M. Balu Naik son of Sitha Naik, aged 33 years.
18. O. Venkateswarlu son of Balaiah, aged 44 years.
19. T. Bhima Shankara Rao son of Venkateswara Rao, aged 25 years.
20. A. Koteswara Rao son of Venkaiah, aged 55 years.

Petitioners 14 to 20 are Commission Vendors, Catering Department,
Guntur Division, South Central Railways, Guntur.

...PETITIONERS

AND

1. The Railway Board, Railway Bhavan, New Delhi, rep. by its Chairman.
2. The General Mangaer, South Central Railways, Secunderabad.
3. The Chief Commercial Superintendent, South Central Railways,
Secunderabad.
4. The Senior Divisional Commercial Superintendent, South Central
Railways, Vijayawada.
5. The Senior Divisional Personnel Officer, Personnel Branch, South
Central Railways, Vijayawada.

6. J. Venkateswara Rao, Head Bearer, Vegetarian Refreshments Room, Railway Station, Vijayawada.
7. G. Danieal, Hear Bearer, Vegetarian Refreshments Room, Railway Station, Vijayawada.
8. The Central Administrative Tribunal, Bench at Hyderabad rep. by its Registrar.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus –

- i) declaring the orders passed by the 5th Respondent absorbing the unofficial Respondents who are medically decaderised in other department, in catering Department through orders dated 1-8-2001 as head Bearers, as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and as against the Judgment of the Supreme Court and Railway Borad's Standing Orders and Consequently set aside the same; further
- ii) Declaring the inaction of the Respondents 1 to 4 in not absorbing the petitioners on regular basis in the Catering Department from the date when the vacancies arose in the said Department as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; further
- iii) declaring the Judgment of the Central administrative Tribunal, Bench at Hyderabad, the 8th Respondent herein, in OA No.1293/2001 dated 16-8-2002 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; consequently

- iv) direct the Respondents 1 to 4 herein to absorb the petitioners on regular basis from the date when the vacancies arose/and from the date each one of the petitioners became eligible for appointment to the regular vacancies on the basis of the seniority list prepared by the Railway Administration by giving back wages and service benefits.

I.A. NO: 1 OF 2002(WPMP. NO: 25522 OF 2002)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents 1 to 5 to forthwith absorb the petitioners herein in the existing vacancies which are available as on the date either in the Catering Department or Operating Department.

Counsel for the Petitioner: SRI NANDIGAM KRISHNA RAO

**Counsel for the Respondent No.1 to 5: SRI N.SASIKALA (STANDING
COUNSEL FOR RAILWAYS)**

The Court made the following: ORDER



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3470]

MONDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

WRIT PETITION NO: 20354/2002

Between:

P.raja Rao & 19 Others

...PETITIONER

AND

Chairman Railway Board N Delhi 7 Other

...RESPONDENT

Counsel for the Petitioner:

1. NANDIGAM KRISHNA RAO

Counsel for the Respondent:

1. N SASIKALA (STANDING COUNSEL FOR RAILWAYS)

The Court made the following order: (*per Hon'ble Sri Justice Ravi Nath Tilhan*)

Sri Vinod Kumar, learned counsel, representing Sri Nandigam Krishna Rao, learned counsel for the petitioners seeks adjournment.

2. The matter pertains to the year 2002 and has been listed under the caption of 'Specially Identified Cases'.

3. Under the circumstances, the prayer for adjournment for no cause shown is rejected.

4. We have perused the material on record.

5. This Writ Petition under Article 226 of the Constitution of India has been filed for the following relief:-

"For the reasons stated in the accompanying affidavit, it is prayed that the Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus –

- (i) declaring the orders passed by the 5th Respondent absorbing the unofficial Respondents who are medically decaderised in other departments, in catering Department through orders dated 1-8-2001 as Head Bearers, as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and as against the Judgment of the Supreme Court and Railway Board's Standing Orders and consequently set aside the same; further
- (ii) declaring the inaction of the Respondents 1 to 4 in not absorbing the petitioners on regular basis in the Catering Department from the date when the vacancies arose in the said Department as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; further
- (iii) declaring the Judgment of the Central Administrative Tribunal, Bench at Hyderabad, the 8th Respondent herein, in OA No.1293/2001 dated 16-8-2002 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice; consequently
- (iv) direct the Respondents 1 to 4 herein to absorb the petitioners on regular basis from the date when the vacancies arose and from the date each one of the petitioners became eligible for appointment to the regular vacancies on the basis of the seniority list prepared by the Railway Administration by giving back wages and service benefits; and
- (v) pass such other order or orders as the Hon'ble Court deems fit, proper and appropriate in the circumstances of the case."

6. The case of the petitioners was that the petitioners filed O.A.No.1293 of 2001 in the Central Administrative Tribunal, Hyderabad Bench, challenging the inaction of the respondents in not regularizing the services of the petitioners pursuant to the judgment of Hon'ble the Supreme

Court in the case of **T. I. Madhavan vs. Union of India**¹ and in absorbing the respondent Nos.6 and 7 in Catering Department vide proceedings dated 01.08.2001. It was submitted that the absorption of the said respondents was contrary to the orders of the Divisional Railway Manager, Vijayawada dated 07.08.1997 as also against the orders of Hon'ble the Apex Court.

7. The further case of the petitioners was that they were all working as Commission Bearers/Vendors in South Central Railway, Vijayawada/Guntur since 1961. The Railway Board had taken a decision to register the names of the Commission Bearers/Vendors for absorption vide proceedings dated 13.12.1976. Basing on the decision of the Railway Board, the Chief Commercial Superintendent, South Central Railway vide proceedings dated 27.06.1997 directed the authorities concerned to screen the Commission Bearers/Vendors and those who were found suitable were to be empanelled in order to absorb and accordingly the panel was prepared in which the names of the petitioners/applicants found place. They were rendering service from 1961 onwards. The grievance raised was that inspite of the decision of Hon'ble the Apex Court in the case of **T. I. Madhavan (supra)** the petitioners were not being absorbed.

8. The respondents filed their counter affidavit/reply affidavit in the O.A. Their stand was that pursuant to the order of Hon'ble the Apex Court, the concerned Division made a seniority list for the Commission Bearers/Vendors, basing on the length of working days and those were being absorbed in the initial grade. It was their further case that the regular absorption and recruitment would be made only to the recruitment grades and not to the intermediate grades as per the recruitment rules. They admitted that two medically de-categorised employees i.e. respondent Nos.6 and 7, were posted in the higher grade of Rs.2650-4000 (RP) as per the rules as the administration required to relocate those medically de-categorised persons, depending upon their suitability as early as possible and those medically

¹ 1988 (Supp) SCC 437

de-categorised persons were the regular employees. The Commission Bearers/Vendors were working as casual labour and could not be absorbed in the higher grade. The respondents justified their action on the ground that the respondent Nos.6 and 7 were medically de-categorised and were their regular employees.

9. In **T. I. Madhavan (supra)** the Hon'ble Apex Court had passed the following order:-

"1. Mr. G. Ramaswamy, learned Additional Solicitor General appearing for the respondents draws our attention to the order passed by this Court in **Saital Singh and Anr. v. Union of India and Ors.** (W.P. Nos. 6804-05/82 dated December 13, 1983 (SC)) and states that the Union of India is prepared to abide by the terms of the order. He also submits that the direction contained in the order of this Court dated March 10, 1986 in this case while issuing a rule nisi for payment of salary to the employees covered by the writ petition at the same rate as salaried bearers of the Railway Catering Establishment w.e.f. December 1, 1983 needs modification with regard to the date from which the salary and other emoluments are payable to them upon absorption.

2. We accordingly direct that all persons working as commission bearers and vendors on various railway platforms belonging to the Central Railway and the South Central Railway would be absorbed progressively as members of the permanent Railway Catering Service as per the terms of paragraph 3 of the Memorandum No. 76 TG III/639/11 dated December 13, 1976 issued by the Joint Director, Traffic Commercial (C) II, Railway Board, New Delhi, **as and when vacancies to the posts of bearers in the Railway Catering Service occur. As directed by this Court in Saital Singh case, the concerned Railway Administrations would first absorb all the bearers who are registered in accordance with the aforesaid memorandum, thereafter** the vendors who are so registered and until all the bearers and vendors are accordingly absorbed, the Railway Administrations shall not recruit or appoint any person either as a bearer or vendor on permanent basis in Railway Catering Service from any other source.

3. In view of this, we must necessarily modify the direction contained in this Court's order dated March 10, 1986 as to payment of salary. In modification of the earlier direction, we direct that the vendors and bearers so absorbed in the Railway Catering Service shall be entitled to salary as from the date of their absorption and not from December 1, 1983.

4. The writ petition and the connected civil miscellaneous petitions are disposed of accordingly."

10. The Tribunal vide the impugned order dated 16.08.2002, recorded that the respondent Nos.6 and 7 were recruited in the post of Head Bearer in the grade of Rs.2650-4000 (RP) on the ground of being medically de-categorised employees who were required to be relocated. It found that the petitioners/applicants were working as Commission Bearers/Vendors and they could be absorbed only in the initial grade. If a person was working as casual labour he could be absorbed only in the initial grade. The Tribunal observed that the names of the petitioners were also registered in the waiting list and since there was already a direction of the Hon'ble Supreme Court to absorb all the Commission Bearers/Vendors, no further direction was necessary.

11. The petitioners cannot claim parity with the respondent Nos.6 and 7, they being the regular employees and as they were medically de-categorised, and required relocation. Their cases stood on different footing than that of the petitioners.

12. For the persons like petitioners if so covered, there is already direction of Hon'ble the Apex Court in **T. I. Madhavan (supra)**.

13. We do not find any illegality in the order of the Tribunal.

14. The writ petition lacks merits and is dismissed.

15. We clarify that the claim of the petitioners, if so covered by **T. I. Madhavan (supra)**, shall remain unaffected by dismissal of this writ petition.

16. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

Sd/- A VENUGOPALA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

NB
SECTION OFFICER

To,

1. One CC to SRI NANDIGAM KRISHNA RAO, Advocate [OPUC]
2. One CC to SRI N.SASIKALA (STANDING COUNSEL FOR RAILWAYS) Advocate [OPUC]
3. Three C.D Copies
MBT

HIGH COURT

DATED:08/07/2024

ORDER

WP.No.20354 of 2002



**DISMISSING THE W.P
WITHOUT COSTS**