

All India Shramik and Coach Attendants' Welfare Association and Another

Vs

Union of India and Others

Writ Petition No. 4552 of 1981

(M.P. Thakkar, N.D. Ojha JJ)

08.03.1988

ORDER

1. One of the questions raised in the present writ petition is as to whether the petitioners who are Coach Attendants are performing duties and functions which were being performed by the Passenger Attendants, Grade I, and whether they are entitled to be placed in the same category in the light of the duties and functions discharged by them as also taking into account the relevant Rules of Conditions of service. The factual averments made in the petition are controverted by the other side in the counter-affidavit, and further affidavits filed by them. As to what exactly are the nature of functions and duties discharged by the petitioners and whether they are entitled to be so categorized is a question which will require examination of witnesses. Findings will be required to be recorded on the basis of such evidence and such documents as are produced by the parties. It is extremely difficult for this Court to undertake this function in exercise of the jurisdiction under Article 32. Since, however, the matter has been admitted in 1981, we think the solution to this problem lies in referring the questions raised in the petition to the Presiding Officer, Central Government Industrial Tribunal, 6th Floor, Nirmal Tower, Barakhamba Road, New Delhi. A copy of this order along with the paper book of the writ petition shall be forwarded to the Tribunal. The parties will be at liberty to place before the Tribunal further documents and examine such evidence as they desire in regard to the disputed question of facts. The parties will also place before the Tribunal the relevant passages relating to the petitioners from the Report of the 4th Pay Commission and earlier Pay Commissions and such other Commissions as may have been appointed for categorization and fixation of pay scales of the railway employees. The Tribunal is requested to examine whether the grievance made in this petition was raised before such commissions and how the matter was dealt with by the said commissions and submit its views and report in this context. It will be open to the respondents to raise all contentions which they have raised in the counter. The Tribunal will afford a hearing to both the parties and record its own findings and express its views on the questions which are raised in the petition. The findings recorded by the Tribunal will be forwarded to this Court. The findings recorded and the opinion expressed will not be binding and conclusive and will be subject to the scrutiny of this Court for the same are being called in order to save the time of this Court and for securing the assistance of the Tribunal on the points in issue. The parties will have an opportunity to address this Court in regard to the validity or otherwise of the findings and opinion expressed by the Tribunal. This matter will be kept pending till the report of the Tribunal is received. The Tribunal is requested to do the needful and to make its report as early as possible preferably within six months.

2. It will be open to both parties to place on record their objections, if any, to the report in writing within three weeks of the filing of the report. The matter will be listed two week thereafter.

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