

Mahanagar Railway Vendors' Union

Vs

Union of India and Others

Cmp No. 11356 of 1988 In Review Petition No. 228 of 1988 In Writ Petition No. 1286 of 1987

(K. Ramaswamy, R. M. Sahai JJ)

12.04.1993

ORDER

This Court in *M. M. R. Khan v. Union of India* (1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541) held that the employees appointed in the statutory canteens as well as those engaged in non-statutory recognised canteens in the railway establishments are the railway employees and they are entitled to be treated as such. In other respects, this Court had not granted relief to other non-statutory employees while the writ petitions were pending. The petitioners' association representing the persons appointed by the commission vendors on the railway platforms on the various places also claimed parity to be treated as railway catering service. This writ petition came to be dismissed and for review of that order the petitioners have filed this petition. It is contended by the learned counsel for the petitioners that in another case Writ Petition No. 575 of 1987 etc., etc. the petitioners therein claimed that there will be an order in same terms as in *T. I. Madhavan v. Union of India* (1988 Supp SCC 437 : 1988 SCC (L&S) 872). That judgment was rendered on September 8, 1987. That was not brought to the notice of the three Judges' Bench when *Khan* case (1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541) was decided. After *Khan* case (1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541) was decided the non-statutory, non-recognised cases were directed for disposal. It would appear when W.P. No. 575 of 1987 etc. were posted, instead of bringing to the notice of the Court of *Khan* case (1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541), *Madhavan* case (1988 Supp SCC 437 : 1988 SCC (L&S) 872) was referred as having being covered. Accordingly, it was ordered thus : "There will be an order as in *Madhavan v. Union of India* (1988 Supp SCC 437 : 1988 SCC (L&S) 872)." Thus this Court was led to believe that the law holding the field is *Madhavan's* ratio (a two-Judge Bench) instead of *Khan's* ratio (three-Judge Bench) a binding precedent. Therefore what is prevailing law is the one laid down by this Court in *M. M. R. Khan v. Union of India* (1990 Supp SCC 191 : 1990 SCC (L&S) 632 : (1991) 16 ATC 541), and the direction given by this Court in the above writ petition referred to on September 22, 1992 would also fall in line with *Khan's* ratio. Accordingly, the petitioners are not entitled to the parity of treatment. The question of review does not arise. The civil miscellaneous petition is dismissed accordingly.

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