

(2007) 02 DEL CK 0241

In the Delhi High Court

Case No : Writ Petition (C) 1482 of 2002 and CM No. 3327 of 2006

Union of India (UOI)

APPELLANT

Vs

All India Station Masters" Assoc and Another

RESPONDENT

Date of Decision : 28-02-2007

Acts Referred:

Railway Servants (Hours of Employment) Rules, 1951 — Rule 4(2)

Citation : (2007) 02 DEL CK 0241

Hon'ble Judges : Mukul Mudgal, J;Aruna Suresh, J

Bench : Division Bench

Advocate : H.K. Gangwani, for the Appellant; G.D. Bhardwaj, for the Respondent

Final Decision : Disposed Off

Judgement

Mukul Mudgal, J.—Rule DB.

2. With the consent of the learned Counsel for the parties, the matter is taken up for final hearing.

3. This writ petition challenges the order of the Central Administrative Tribunal dated 8.8.2001 passed in OA No. 1752/2000 and the Review Order dated 23.1.2002 thereby dismissing the review application filed by the petitioner. The impugned order dated 8.8.2001 has given the following directions:

In the result, and having regard to the reasons recorded, we allow this OA and direct the respondents to refer the issue of re-classification of working hours to Regional Labour Commissioner under Sub rule (2) of Rule 4 of the Railway Servants (Hours of Employment) Rules and get finality of their decision and also await the order on appeal as provided under Rule 4 (2) *ibid*. Till then they shall not implement the re-classification orders whereby the working hours have been increased. The respondents are also directed not to transfer the ASMs and SMs of three concerned divisions as a consequence of the re- classification under the guise of surplus staff. As regards the relief of the applicants for direction to pay for extra hours of duty realised by them, the same would be decided after a final

decision is taken by the Regional Labour Commissioner and also on appeal. No costs.

4. Through CM No. 3327/2006 the petitioner has prayed for dismissal/disposal of the writ petition in view of the final orders dated 12.7.2005 passed by the Regional Commissioner, Kanpur in terms of the CAT's Judgment orders dated 8.8.2001. It is contended that the Railway Authorities had referred the matter to the Regional Commissioner, Kanpur vide their letter No. E/Adj/FJA/GM- MCV.CH dated 29.2.2000. The Award was passed by the Regional Commissioner on 12.7.2005 and has held that the impugned reclassification orders of the Railways are not sustainable and the same were quashed with the direction to the Railways to grant all consequential benefits from 15.9.1992 to the concerned staff. The learned Counsel for the petitioner has submitted the participation in the said proceedings before the Regional Commissioner on behalf of the petitioner was unauthorised and the Award has been challenged before the Secretary Labour, Government of India.

5. Since the Award already stands challenged before the Secretary Labour, Government of India on the grounds stated by the learned Counsel for the petitioner, the writ petition has obviously become infructuous as the grievance raised by the petitioner about the reference made by the CAT to the Regional Commissioner cannot be raised now as the Regional Labour Commissioner has already decided the issue and the said decision is under challenge in appeal. The Writ Petition is accordingly disposed of as having become infructuous.