

COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

MINISTRY OF RAILWAYS

(Presented to Lok Sabha on)



**LOK SABHA SECRETARIAT
NEW DELHI**

February, 2015/Magha 1936 (Saka)

CONTENTS

	Pages
Composition of the Committee on Petitions:	(iii)
INTRODUCTION.....	(v)

REPORT

Representation received from Shri Rinku Agarwal, General Secretary, All Indian Railway Vendors Association, regarding – Railways' order for arbitrary closure of stalls/trolleys of 09 Commission Vendors at New Delhi Railway Station.

ANNEXURE

- i) Minutes of the 6th sitting of the Committee held on 10.12.2014
- ii) Minutes of the 8th sitting of the Committee held on 6.2.2015

COMPOSITION OF THE COMMITTEE ON PETITIONS (2014-2015)

Shri Bhagat Singh Koshyari - *Chairperson*

MEMBERS

2. Shri Suresh C. Angadi
3. Shri Om Birla
4. Shri Jitendra Chaudhury
5. Shri Ram Tahal Choudhary
6. Shri Rajen Gohain
7. Dr. K. Gopal
8. Shri Chhedi Paswan
9. Shri Kamlesh Paswan
10. Smt. Krishna Raj
11. Shri Arjun Charan Sethi
12. Shri Kodikunnil Suresh
13. Shri Dinesh Trivedi
14. Shri Rajan Vichare
15. Shri Dharmendra Yadav

SECRETARIAT

- | | | |
|-----------------------|---|-------------------------|
| 1. Smt. Sudesh Luthra | - | <i>Joint Secretary</i> |
| 2. Shri Shiv Kumar | - | <i>Director</i> |
| 3. Md. Aftab Alam | - | <i>Deputy Secretary</i> |
| 4. Shri Harish Sethi | - | <i>Senior Executive</i> |
| <i>Assistant</i> | | |

(iii)

FIRST REPORT OF THE COMMITTEE ON PETITIONS

(SIXTEENTH LOK SABHA)

INTRODUCTION

I, the Chairperson, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this First Report (Sixteenth Lok Sabha) of the Committee to the House on the representation received from Shri Rinku Agarwal, General Secretary, All Indian Railway Vendors Association, regarding – Railways' order for arbitrary closure of stalls/trolleys of 09 Commission Vendors at New Delhi Railway Station.

2. The Committee considered and adopted the draft First Report at their sitting held on 06 February, 2015.
3. The observations / recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

BHAGAT SINGH KOSHYARI

**Chairperson,
Committee on Petitions**

06 February, 2015
17 Magha, 1936 (Saka)

REPORT ON THE REPRESENTATION RECEIVED FROM SHRI RINKU AGGARWAL, GENERAL SECRETARY, ALL INDIAN RAILWAY VENDORS ASSOCIATION, REGARDING-ARBITRARY CLOSURE OF STALLS/TROLLEYS OF 9 COMMISSION VENDORS AT NEW DELHI RAILWAY STATION.

A representation dated 19.9.2014 was submitted to the Committee on Petitions by Shri Rinku Aggarwal, General Secretary, All Indian Railway vendors Association, regarding-arbitrary closure of stalls/trolleys of 9 Commission Vendors at New Delhi Railway Station.

2. In his representation, the Petitioner has stated that in the month of March, 2014, stalls/trolleys of 9 Commission Vendors working at New Delhi Railway Station were closed temporarily on the ground that they failed to obey the instructions given by the Department regarding submitting duly filled up form for their absorption into Indian Railways as per the Directions of the Hon'ble High Court of Delhi. He further stated that on meeting the Chief Station Master, New Delhi, they were assured that the closed stalls would be allowed to be opened soon. The forms given by the Department were also submitted after filling them. However, upto that point in time nothing had been done. The Petitioner has, therefore, requested the Committee to look into the matter and also to direct the Railway authorities that in the meantime their stalls/trolleys be allowed to opened.

3. The Committee on Petitions took up the matter for detailed examination under Direction 95 of the Directions by the Speaker, Lok Sabha. Accordingly, the representation was referred to the Ministry of Railways for ascertaining their comments on the issues/points raised therein. The Ministry of Railways *vide* their OMs dated 10 October, 2014 and 09.12.2014 furnished their comments along with the replies to questionnaire forwarded by the Committee in the matter.

4. On being asked by the Committee about the background of the issue raised by Petitioner in his representation, the Ministry in their written reply stated:-

"At present, there are 90 Commission Vendors (34 at New Delhi station and 56 at old Delhi station) over Delhi Division of Northern Railway. Of these, 43 Commission Vendors (33 at New Delhi station & 10 at old Delhi

station) had approached Hon'ble High Court of Delhi by filing seven writ petitions. The Hon'ble High Court of Delhi delivered a single judgement for all seven writ petitions on 05.11.2014 and directed Railway to consider the case of eligible Petitioners for being absorbed against vacant post in "Group-C" provided such eligible Petitioners i.e. who have not crossed the age of 59 years, seek absorption within two weeks from today and the respondents are directed to consider the case with expedition i.e. within twelve weeks or so.

Accordingly, a letter was issued on 08.04.2013 to the original petitioners through Railway Commission Vendors Union to submit their documents for verification of personal details and a screening committee was constituted on 13.5.2013 for its verification. Out of these 43 Commission Vendors (petitioners), only 34 Commission Vendors turned up before the screening committee and their result was forwarded to Personnel Branch on 5.7.2013. " Personnel Branch" of the division, in turn, directed these Commission Vendors to submit their applications for absorption. However, none of these 34 Commission Vendors turned up in Personnel branch for taking absorption.

Remaining, 9 Commission Vendors-petitioners, (which also includes Shri Rinku Aggarwal) were issued a show cause notice and were directed to submit the required documents and appear personally before the screening committee on 30.1.2014, but they did not respond and opted not to submit the required affidavit. The Commission Vendors, including Shri Rinku Aggarwal, sought clarification about the absorption in Railway for Group C post. Personnel Branch explicitly clarified that the post of waiter in Grade Pay 1800 as per Board letter No.P-IV/2008/1/3/1 dated 29.10.2008, is Group-C post.

The Ministry of Railways have further stated that the Show Cause Notice issued by them did not evoke any response of the Vendors. Hence,

they issued a final notice dated 11.03.2014 for closure of their units, if requisite documents for absorption in Railway would not be submitted. When all efforts and persuasion of Railway Administration failed to evoke any response from the Commission Vendors, three notices were issued to them before finally closing down these units temporarily on 28.03.2014 after 17 days from the issue of final notice. The main grouse of the Commission Vendors was that they should be offered Grade pay of Rs. 1900 instead of Rs.1800, being a Group D post. Personnel Branch of the division had already clarified the following facts:

"In Railway Board letter no P-IV/ 2008/ 1 / 3 /1 dated 29.10.2008, all employees having pre revised scale as 2550-3200, 2610-3540, 2650-4000 and 2750-4400 with PB-1 Rs 5200-20200 + GP-1800 have been placed in Group C. The fact that Waiter, GP-1800 is a Group C post was also clarified to them.

This fact was conveyed to all 9 Commission Vendors on : 16.4.2014, i.e. after the closure of the stall/ trolley."

The Committee have further been apprised that another chance was given to 34 Commission Vendors(CVs) to submit their attestation form (who have been offered so by Personnel Branch) and 56 Commission Vendors to submit documents for screening (47, non-petitioners + 9 whose unit were closed down) or face punitive action like closing down of units or contempt of court. These 9 Commission Vendors on 29.4.2013 responded that the information sought was already available in the Divisional Office and there were no reasons for asking any further information.

Issues specific to Sh. Rinku Aggarwal, the Petitioner, submitted personally or jointly in reply to Delhi Division as elaborated by the Ministry as follows:-

S.No	Representation received on	Issues Raised	Replied on	Remarks
1	30.03.2014	Absorption of CV against a suitable	16.04.2014	Commission Vendors were instructed to

S.No	Representation received on	Issues Raised	Replied on	Remarks
		post in Railway under Group "C"		submit the required information duly forwarded by CIC/ NDLS
2	11.07.2014	Grievances of CV working at New Delhi Railway Station	05.08.2014	Commission Vendors were offered a group "C" job for the post of Waiters in the pay band of "1800"
3	22.07.2014			
4	29.08.2014	Re-opening of 09 Ctg. Stalls/Trolleys closed since 28.03.2014	05.09.2014	09 Commission Vendors were asked to appear before the screening committee for verification of records for absorption in Railways directly via Speed Post.
5	28.10.2014	Request for Re-opening of 09 Ctg. Stalls/Trolleys closed since 28.03.2014	30.10.2014	The case of Commission Vendors for absorption in Railways, after screening was forwarded to Sr. DPO/ DLI for further necessary action.

5. The Committee specifically desired to know as to whether the policy regarding allotment of stalls/trolleys at Railway Stations/award of contract to Commission Vendors is prepared at the national level or the Railway zones/Divisions are free to frame their own policy. In this regard, the Ministry in their written reply submitted:-

"As per the extant policy, Commission Vendors are to be progressively absorbed in the Zonal Railways and are not to be allotted any stalls/trolleys. Commission Vendors were engaged by Railway to sell catering items, procured by Railway through their department units, on which, commission was paid to them at different rates."

6. The Committee, then, desired to know about the terms and conditions of the contract with these Commission Vendors, the Ministry in the written reply submitted as under:-

"No formal agreement has ever been executed between Commission Vendors and Indian Railways. However, as a practice, they sell items procured by departmental catering/ vending Units which are then sold to passenger. Since no agreement was executed, there stalls were discontinued temporarily."

7. On being inquired by the Committee about the details of the case(s) filed by the Petitioner and other aggrieved Vendors before the Hon'ble High Court against the cancellation of their stalls/trolleys and the outcome thereof, the Ministry in their written reply submitted:-

"No information exists in Railway about any case being filled against cancellation of stalls / Trolleys by Shri Rinku Agarwal. He was part of 43 petitioners who had filed a writ petition in Hon'ble Delhi High Court. This writ petition was regarding absorption of Commission Vendors in Railways."

8. The Committee desired to know the action taken so far by the Ministry of Railways to comply with the orders of the Delhi High Court. The Ministry in the written reply stated:-

"... an opinion was sought from the Railway Advocate as to course of action that is to be adopted by Railways. This included a notice to be issued as a final chance to 34 Commission Vendors to submit their

attestation form (who have been offered so by Personnel Branch) and 56 Commission Vendor to submit documents for screening (47, non-petitioners + 9 whose unit were closed down) or face punitive action like closing down of units or contempt of court. The Railway advocate agreed with the course of action proposed by Railways and suggested further action.

The units of 34 Commission Vendor's, who had earlier appeared for screening but did not turn up for collecting the medical memo/offer letter for examination by Railway doctors, were also closed down on 15.11.2014 as they did not heed to the notices of Personnel Branch."

9. The Committee further categorically desired to know about the reasons for not opening up of closed down stalls despite repeated representations of the Vendors since March, 2014. The Ministry in their written reply submitted:-

"No specific action with regards to Sh. Rinku Agarwal has been taken in particular but is a part of the joint action against all the 09 Commission Vendors. These Commission Vendors were again given an opportunity to submit their papers for screening on 26.08.2014, to which they had now submitted the required documents. His documents have been screened on 11.09.2014 and have been submitted to Personnel Branch for further action. It also mentioned that Shri Rinku Agarwal has submitted contradictory proofs of his date of birth in the documents submitted for screening (as per sworn affidavit and PAN card his DOB is 2.10.1974 but as per school leaving certificate DOB is 02.01.1976). This discrepancy has been forwarded to Personnel Branch for arbitration."

10. On a specific query by the Committee about the other Commission Vendors apart from these 09 Commission Vendors who have also failed to furnish the

requisite documents and as to whether the stalls/trolleys of those other vendors have also been closed down, the Ministry in the written reply submitted:

"It is clarified that, other than these 9, all other 34 Commission Vendors had submitted their requisite documents. In the second phase there are 57 Commission Vendors (47, non-petitioners + 9 whose unit were closed down) who have again been screened and their documents have sent to Personnel Branch for absorption in Railway after completion of necessary formalities."

On the issue, the Ministry further submitted as following:-

"Initially, 9 units of Commission Vendor were closed down as they did not submit their documents for screening.

Thereafter on 15.11.2014, units of 32 Commission Vendor (21 at New Delhi Station and 11 at Old Delhi Station) were also closed down as they did not appear before Personnel Branch to collect their medical memos for undergoing necessary medical test before Railway doctors."

On the issue of temporary closure of stalls the representative of the Railway Board during deposition stated that these vendors have been told to come, complete the formalities and then work on their stalls till they get the letter of appointment. The stalls would then be closed when they are absorbed in Railways.

11. The Committee during the course of oral evidence ensured as to whether the Petitioners could be accommodated in Group 'C' category, instead of Group 'D' with a grade pay of Rs. 1900. In response thereto, the Member (Traffic). Railway Board submitted before the Committee that there is no category 'D'. All are category 'C'. Now there is no category 'D'. If we give these Commission Vendors the Grade Pay of 1900, the persons numbering about 300 absorbed earlier in group D, as group D existed at that time, would also demand for grade pay of 1900. It was suggested to

these Vendors to first join in grade pay of 1800 and then get promotions, as is the case with all Railway employees."

12. On a query with regard to the status of category `C' employees, whether permanent or temporary, the representative of Railway Board further submitted:-

"As far as C category are concerned, after we merge both C and D category, recommendation of promotion of people who have now join C category are permanent employees. They do not go anywhere again except for routine medical or routine training or routine upgradation and promotion training course. As far as present policy of vendors is concerned, that was because of the action. Now the policy is that Railway will not have any Commission Vendors at all. Since we have taken policy decision, there will not be any Commission Vendors in future. But they will go into promotion channel into cadres like waiter, cook, supervisor or some other category whichever is available. All we are saying is that their educational qualification has been totally relaxed. Now they need not be 8th pass. Only they should be able to make signature."

13. The representative of Railway Board also apprised the Committee that 63 vacancies were kept in Delhi. These vacancies are not been filled as these Commission Vendors had to be adjusted in them.

Observations/Recommendations

14. Shri Rinku Aggarwal, the Petitioner, in his representation has stated that he alongwith the other Members of the All India Railway Vendors' Association had been working as Commission Vendors at New Delhi Railway Station and selling items of catering supplied by the Railways to the passengers on fixed commission basis. Subsequently, their stalls were closed down temporarily by the Railways on the pretext of not obeying the instructions passed on by the Authorities of Northern Railways. The Petitioner has claimed that he alongwith the other vendors of the abovementioned organization have not disobeyed any of the instructions passed out by the Indian Railways, instead, the Railway Authorities have not been taking cognizance of their rightful grievances despite sending numerous representations to them.

15. The Petitioner further submitted that he alongwith the Members of the Association met the Chief Station Manager, to represent their case before him. The concerned Authorities assured the Members of the Association that their stalls have been closed temporarily, in view of their reluctance to fulfil the procedure for absorption in Indian Railways and further informed them that the stalls would be opened up as and when the duly completed forms from the vendors are received in the office. The petitioner has further maintained that despite the fact that the forms as required by the Railway Authorities have been submitted by them; the Railway Authorities have been partial in their action to close down their stalls because they brought out certain irregularities in the operation stalls on the New Delhi Railway Station to the higher Railway Authorities.

16. The Committee note from the information furnished by the Ministry of Railways that as per extant policy, commission vendors are to be progressively absorbed in the Zonal Railways and are not be allotted any stall or trolley. At present there are 90 Commission Vendors (34 at New Delhi Station and 56 at Old Delhi Station) in the Delhi Division of Northern Railway. 43 Commission Vendors of Delhi Division had approached Hon'ble High Court of Delhi by filing seven writ petitions. The Hon'ble High Court of Delhi delivered a single judgement for all seven writ petitions on the 5th November, 2012 and directed Railways to consider the case of eligible petitioners i.e. who had not crossed the age of 59 years, and who seek absorption within two weeks and the respondents were directed to consider the case with expedition i.e. within twelve weeks or so.

17. The Committee have further been apprised by the Ministry of Railways that in response to a letter dated the 8th April, 2013 issued to the petitioners in pursuance of the Orders of the Court, out of 43 Petitioners, 34 turned up before the Screening Committee constituted for verification of personal details. Personnel Branch of the Division, in turn, directed these Commission vendors to submit their applications for absorption. However, none of these 34 vendors turned up in Personnel Branch for taking absorption. As per the Ministry of Railways, remaining nine Commission vendors (which also includes Shri Rinku Aggarwal, the Petitioner) were issued a Show-cause-notice and were directed to submit the required documents and appear personally before the Screening Committee on the 30th January, 2014, but they did not respond and opted not to submit the required affidavit.

18. As per information furnished by the Ministry, these nine Commission Vendors were again given an opportunity to submit their papers for

screening on the 26th August, 2014, to which they have now submitted the required documents. The documents have further been screened and submitted to Personnel Branch for further action. The Committee have also been apprised that 63 vacancies have been kept in Delhi to adjust these Commission Vendors. The Committee hope and trust that all these Commission Vendors including nine Vendors would be absorbed in Railways as waiter in Group-C post expeditiously.

19. The Committee observe that as per the extant policy of Railways, Commission Vendors are to be progressively absorbed in the Zonal Railways and are not to be allotted any stalls/trolleys. From the information furnished by the Ministry, the Committee note that nine units of Commission Vendors were initially temporarily closed down in March, 2014 followed by closing of stalls of other 32 Commission Vendors. The Committee deplore the way the stalls of these Commission Vendors were closed down without being absorbed in Railways as per their policy thereby snatching the only livelihood of these Vendors. On the issue of temporary closure, the Committee have been apprised by the representative of Railway Board during the course of deliberations that these vendors have been told to come, complete the formalities and then work on their stalls till they get the letter of appointment. Now when Commission Vendors have submitted the required documents to the concerned authorities, the Committee strongly recommend the Ministry to immediately issue instructions to the concerned authorities to lift the temporary closure order and let the stalls be operational till such Vendors are finally absorbed in the services of Railways.

20. It has come out during the course of deliberations that the main grudge of the Commission Vendors is that they want absorption in Grade-C at the Grade Pay of Rs.1900 whereas the post being offered to them is of waiter which is Grade-C in the Grade Pay of Rs.1800. The Ministry's

contention is that after their appointment as waiter they would go into promotion channel into cadres like waiter, cook, supervisor or some other category whichever is available. The Committee find that the Hon'ble High Court has issued direction to Railways to absorb eligible Commission Vendors who have not crossed the age of 59 years in Group-C post against vacant posts of waiter or like. The Committee feel that these Commission Vendors across the country have been performing jobs, very similar to that of a waiter for years, without having the security or benefits of a Government job. The Committee, however, are of the view that considering the age at which many of the Commission Vendors would be absorbed in Railways, the total service rendered by them would not make them entitle for full benefits of the Government Service. The Committee, therefore, recommend the Ministry to treat the case of these Commission Vendors at a different footing and to offer them onetime benefit by absorbing them as waiter at a grade pay of Rs. 1900.

21. The Committee would like to be apprised of the action taken reply by the Ministry on the matter in a months' time.

NEW DELHI;

BHAGATSINGH KOSHYARI
Chairperson,
Committee on Petitions

06 February, 2015
17 Magha, 1936 (Saka)

5. The Committee further find from the information furnished by the Ministry that initially nine units of Commission Vendors were closed on the 28th March, 2014 as they did not submit their documents for screening. Thereafter, the units of another 32 Commission Vendors were also closed down as they did not appear before Personnel Branch to collect their medical Memos for undergoing medical tests before Railway doctors. As per the clarifications given by the representatives of Railway Board, the units of these vendors have been closed temporarily. These vendors have been told to complete all the formalities for absorption and they can go back to their stalls till letter of appointment is given to them. Once they join, these vendors would close their stalls themselves.

6. The Committee understand from the replies furnished by the Ministry that nine Commission Vendors were again given an opportunity to submit their papers for screening on the 26th August, 2014, to which they had now submitted the required documents. The documents have further been screened and submitted to Personnel Branch for further action.

7. The Committee understand from the deliberations held as well as from the representation given by the Petitioner that the main grudge is that they want absorption in Grade-C at the Grade pay of Rs.1900, whereas the post being offered to them is of waiters which is Group-C post in the Grade Pay of Rs.1800. It has also been clarified by the Ministry that after their appointment as waiter they would go into promotion channel into cadres like waiter, cook, supervisor or some other

category whichever is available. The Committee also note that their educational qualification has been totally relaxed.

8. The Committee find from the deliberations that the Railway Board have finally told to these Vendors to complete all the formalities of absorption and go back to their stalls till letter of appointment is given to them. The Committee feel that continued closure of stall of Vendors tantamount to snatching their livelihood. Now when Commission Vendors have submitted the required documents to the concerned authorities, the Committee strongly recommend the Ministry to immediately issue instructions to the concerned authorities to open up the stalls of such Commission Vendors until they are finally absorbed in the services of Railways.

9. The Committee feel that many of the Commission Vendors would be getting absorbed may be aged one and the services rendered by them would not make them entitle to get full benefit of the Government Service. The representative of the Railway Board in fact during the course of deliberations has apprised that one of the 43 such Commission Vendors has already retired. The Committee, therefore, feel that that case of these Commission Vendors needed to be considered a different footing. The Committee, therefore, recommend to offer onetime benefit to these Commission Vendors by absorbing them at a Grade Pay of Rs.1900 as a Special Case so as to mitigate the loss of benefit accruing to the aged Commission Vendors and adequately compensate them thereon as had been their demand to this effect.

10. The Committee would like to be apprised of the action taken reply by the Ministry on the matter in a months' time.

