

Central Administrative Tribunal  
Principal Bench

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O.A. No.3034/2001

New Delhi, dated this the 16th May, 2002.

HON'BLE MR. S.A.T.RIZVI, MEMBER (A)

1. Arun Kumar  
S/o Jagdev Mahto,  
R/o CRRI Staff Colony,  
Maharani Bagh,  
New Delhi.
2. Ved Ram  
S/o Sh.Khema  
R/o CRRI Staff Colony,  
Maharani Bagh,  
New Delhi. ...Applicants.  
(By Advocate: Shri Ashish Kalia)

Versus

1. The Secretary, Indian Council for  
Scientific and Industrial Research  
Rafi Ahmed Marg,  
New Delhi - 110001.
2. The Director, Central Road  
Research Institute, Mathura Road,  
New Delhi, ...Respondents.  
(By Advocate: Shri Kapil Sharma)

ORDER(ORAL)

By Hon'ble Shri S.A.T.Rizvi, Member(A)

Heard learned counsel on either side.

2. The two applicants in the present OA are working as casual labour (Mali) in the Central Road Research Institute from May and September, 1997 respectively. On the basis of the length of services rendered by them, the applicants have claimed that temporary status should be conferred on them and they should be regularised thereafter. They have also sought payment of wages in accordance with the principle of "equal pay for equal work" on the ground that payment being made to them is far less compared

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to the daily wages fixed by the Government under the Minimum Wages Act.

3. Learned counsel appearing on behalf of respondents submits that the applicants have never worked as employees of the respondents and the relationship of master and servant has never existed between the applicants and the respondents. The applicants have been engaged as contract labour through M/s Star Securities & Allied Services and M/s A.N.Kapoor in accordance with agreements dated 18.11.95 and 30.8.99. The applicants get paid by the Contractor and not by the respondents. In view of this, according to him, there can be no question of conferment of temporary status nor of regularisation of the applicants under the respondents. By the same token, the issue of 'equal pay for equal work' cannot be raised in the manner sought to be raised in this case. No rejoinder has been filed on behalf of the applicants.

4. Learned counsel appearing on behalf of applicants has relied on the judgement rendered by this Tribunal on 8th December, 1998 in OA 476/1997 together with OA No. 2453/1997 in which, in similar circumstances, the Tribunal had directed the respondents to bring the applicants in that OA into direct relationship with their employers in accordance with rules and instructions, further directing that thereafter the applicants' eligibility

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for grant of temporary status should also be examined. He has also placed reliance on Secretary, Haryana State Electricity Board Vs. Suresh & Ors. etc. etc. decided by the Supreme Court on 30.3.1999 and reproduced in 1993 (3) SCC 277, as also the judgement rendered by the Supreme Court in Steel Authority of India Vs. National Union Water Fronts' Workers on 30th August, 2001.

5. I have considered the submissions made and have gone through the relevant portions of the aforesaid judgements rendered by the Courts. What has been held in the latest judgement of the Supreme Court dated 30th August, 2001 in the aforesaid cases should, in my view, prove to be decisive in the case at hand. The same inter alia lays down as under:

On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, <sup>xxx</sup>the industrial adjudicator will have to consider the question whether the contractor has been interposed. <sup>xxx</sup>

6. In the present case, the learned counsel appearing on behalf of applicants has raised the issue of the contract being a mere ruse/camouflage set-up to evade compliance of various beneficial legislations. If that plea is accepted, the remedy clearly lies before the Industrial Adjudicator and not before this Tribunal which may not have any jurisdiction in the matter. I decide accordingly.

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7. The present .OA is accordingly dismissed with liberty to the applicants to approach an appropriate forum for adjudication of their claim.

8. In the peculiar circumstances of this case, the respondents are, however, directed to maintain status quo insofar as the applicants are concerned for a period of 15 days within which the applicants promise to approach an appropriate judicial forum for seeking appropriate remedy in this case. The aforesaid direction will automatically come to end on the expiry of 15 days from today.

Issue Dasti.

  
(S.A.T. Rizvi)  
Member(A)

/kd/