

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 970/2001

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WITH
OA No. 971/2001
OA No. 972/2001
OA No. 973/2001
OA No. 974/2001

New Delhi, this the 12th day of July, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. OA No. 970/2001

Anil Kumar,
S/o Shri Raj Kumar,
R/o I-255, Chiriy Colony,
I.A.R.I. Pusa,
New Delhi.

... Applicant

(By Advocate: Shri Chittaranjan Hati)

V E R S U S

1. Union of India
Through : Secretary
Ministry of Agriculture,
Krishi Bhawan, New Delhi.

2. I.C.A.R. Through : Secretary
Krishi Bhawan, N. Delhi.

3. I.A.S.R.I. Through : Director
Pusa, New Delhi.

4. M/s Gogia Brothers (Contractor)
Through : Maintenance Section
IASRI, Pusa, New Delhi.

.... Respondents

(By Advocate: Ms. Anuradha Priyadarshini)

2. OA No. 971/2001

BHARAT,
S/o SHRI RAM BILAS,
R/o H.No.751, TYPE-1,
LOHA MANDI,
KRISHI KUNJ, PUSA,
NEW DELHI.

THE APPLICANT IS WORKING
AS HELPER IN MAINTENACE SECTION
IASRI, PUSA, NEW DELHI.

... Applicant

(By Advocate: Shri Chittranjan Hati)

V E R S U S

1. UNION OF INDIA
THROUGH : SECRETARY,
MINISTRY OF AGRICULTURE,
KRISHI BHAWAN, NEW DELHI.

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2. I.C.A.R. THROUGH : SECRETARY,
KRISHI BHAWAN, N.DELHI.

3. I.A.S.R.I. THROUGH : DIRECTOR,
PUSA, NEW DELHI-12.

4. M/S MANOJ KUMAR (CONTRACTOR)
THROUGH : MAINTENANCE SECTION
IASRI, PUSA, NEW DELHI.

... Respondents
(By Advocate: Ms. Anuradha Priyadarshini)

3. OA No.972/2001

CHANDAN SINGH,
S/O SRI SHER SINGH,
R/O GENERATOR ROOM, IASRI,
PUSA, NEW DELHI.

THE APPLICANT IS WORKING AS
ELECTRICIAN IN MAINTENACE SECTION
IASRI, PUSA, NEW DELHI.

... Applicant
(By Advocate: Shri Chittranjan Hati)

V E R S U S

1. UNION OF INDIA
THROUGH : SECRETARY
MINISTRY OF AGRICULTURE,
KRISHI BHAWAN, N.DELHI.

2. I.C.A.R. THROUGH : SECRETARY,
KRISHI BHAWAN, N.DELHI.

3. I.A.S.R.I. THROUGH : DIRECTOR
PUSA, NEW DELHI-12.

4. M/S ARORA ELECTRICAL (CONTRACTOR)
THROUGH : MAINTENANCE SECTION
IASRI, PUSA, NEW DELHI.

... Respondents
(By Advocate: Ms. Anuradha Priyadarshini)

4. OA No.973/2001

1. UMESH KUMAR,
S/O SHRI RAM PRASAD MEHTO,
R/O TYPE-1, A-835, LOHA MANDI,
KRISHI KUNJ, NEW DELHI.

2. SAYEED KHAN,
S/O SHRI AKBAR KHAN,
R/O G-4, JHUGGI NO.139,
R-BLOCK, PUSA, NEW DELHI.

3. SUNIL KUMAR,
S/O SHRI RAM KISHAN,
R/O 24/1, WZ-VILL: DUSGHARA,
IARI, PUSA, NEW DELHI.

ALL THE APPLICANTS ARE WORKING
IN SAME GRADE (PLUMBER, MESSON
AND CARPENTER) IN IASRI, PUSA,
NEW DELHI.

.... Applicants

(By advocate: Shri Chittranjan Hati)

V E R S U S

1. UNION OF INDIA
THROUGH : SECRETARY
MINISTRY OF AGRICULTURE,
KRISHI BHAWAN, N.DELHI.
2. I.C.A.R. THROUGH : SECRETARY,
KRISHI BHAWAN, N.DELHI.
3. I.A.S.R.I. THROUGH : DIRECTOR
PUSA, NEW DELHI-12.
4. M/S MANOJ KUMAR (CONTRACTOR)
THROUGH : MAINTENANCE SECTION
IASRI, PUSA, NEW DELHI.

.... Respondents

(By Advocate: Ms. Anuradha Priyadarshini)

5. OA No.974/2001

1. SHREE BHAGWAN,
S/o SHRI DHARMA,
R/o C-50, INDERPURI,
J.J. COLONY, NEW DELHI.
2. RAMESH,
S/o SHRI MUNSHI RAM,
R/o G-4, IASRI, STAFF QUARTER,
PUSA, NEW DELHI.
3. RAJ KUMAR,
S/o SH. DOJI RAM,
R/o D-263, DAKSHINPURI,
NEW DELHI.
4. MUKESH,
S/o SHRI BALWANT SINGH,
R/o G-15, IASRI, STAFF QUARTER,
PUSA, NEW DELHI.
5. SHAMMI,
S/O SHRI TARA CHAND
R/o F-414, INDEERPURI,
NEW DELHI.

ALL THEE APPLICANTS ARE WORKING
AS SWEEPERS IN IASRI, PUSA, NEW DELHI.

.... Applicants

(By advocate: Shri Chittranjan Hati)

V E R S U S

1. UNION OF INDIA
THROUGH : SECRETARY
MINISTRY OF AGRICULTURE, KRISHI BHAWAN, N.DELHI.

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2. I.C.A.R. THROUGH : SECRETARY,
KRISHI BHAWAN, N.DELHI.

3. I.A.S.R.I. THROUGH : DIRECTOR
PUSA, NEW DELHI-12.

4. M/S MANOJ KUMAR (CONTRACTOR)
THROUGH : MAINTENANCE SECTION
IASRI, PUSA, NEW DELHI. Respondents
(By Advocate: Ms. Anuradha Priyadarshini)

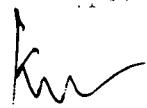
ORDER (ORAL)

As the issue involved in these OAs are common, therefore, I proceed to dispose of all these OAs by passing a common order.

OA No. 970/2001

2. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking direction to the respondents to regularise the services of the applicant and he may kindly be treated as permanent and regular employee of the Respondent Nos.1. to 3.

3. Brief facts of the case are that the applicant is working as Lift Operator in the Maintenance Section, Indian Agriculture Statistical Research Institute, (hereinafter called as 'IASRI') Pusa, New Delhi since 2000 under Respondent Nos.2 to 3 and has fulfilled the basic requirements of 240 working days in a year as per the requirement for granting temporary status and though the respondents have given the operation and maintenance to a contractor, but the applicant is working under the



direct control and supervision of Respondent Nos.2 and 3. The attendance/ duty register of the applicant and the work of the applicant is directly regulated by the IASRI, Pusa, New Delhi. Applicant has also relied upon the judgement passed by the Hon'ble High Court in CWP Nos. 5257/99, 5388/99, 5537/99, 5856/99, 5967/99, 6006/99, 6169/99, 6227/99 and 6886/99 wherein it has been held that the service of the employees engaged through contractors be regularised. Even then the respondents are not considering the case of the applicant for regularising his service, hence, this OA.

4. Respondents in their reply have raised the preliminary objection that the applicant cannot claim regularisation of his service and to be treated as permanent and regular employees of Respondent Nos. 1 to 3 because he is working under them through contractor so the applicant is not the employee of the respondents and hence there is no privity of contract between the applicant and the respondents. Learned counsel appearing on behalf of the respondents has relied upon the judgement of the Tribunal in OA No.2148/1999 in the matter of Chiranjee Lal and Ors. Vs. UOI decided on 20.12.2000 wherein the Tribunal has held as follows:-

"this Tribunal has no jurisdiction to entertain and adjudicate upon the matters relating to contract labour".

5. Heard the learned counsel for the parties and perused the records.

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6. It is an admitted fact that the respondents have given the maintenance work to different contractors, who are made as Respondent No.4 in the OA. Now, the question arises whether the applicant, who is working in the Maintenance Section and has been deployed through various contractors, can be treated as a permanent employee of the respondents or not. The learned counsel for the applicant has referred to a judgement of Hon'ble Supreme Court in the matter of Hussainbhai v. Alath Factory Tezhilali Union reported in AIR 1978 SUPREME COURT 1410 wherein the Hon'ble Supreme Court has held as follows:-

"Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contract is of no consequence when, on lifting the vail or looking at the conspectus of factors governing employment, it is found, though draped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor."

(emphasis supplied)

7. Learned counsel for the applicant has also relied upon the judgement of Calcutta Bench of the Tribunal in the matter of Satyajit Majumdar and others Vs. Union of India and others in T.A. No.140/1988 decided on 22.8.1995 wherein the Tribunal after going through the various clauses of the contract vide which the contracts were given to the contractors to deploy various workers, the Court came to the conclusion that the Railway Administration had not only economic control over the

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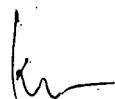
petitioners but also had the control over mode of discharge of duties, attendance, nature and habits, health and many other matters and found that all the requisite for lifting the veil available in the said contract and in these circumstances, the Calcutta Bench had came to the conclusion that the Railway which is an industry, must be deemed to be the Principal Employer of the applicants and the applicants shall be considered as their workmen. By applying these two judgements, I have to see in the present case, whether the respondents Nos.1 to 3 have economic control over the applicant and also other related matters like duties, attendance, nature and habits, health, etc., pertaining to the applicants and if the answer is found in the affirmative nature then only the Court would be in a position to give direction to consider the case of the applicant for grant of temporary status followed by regularisation. So to find out whether the respondents Nos.1 to 3 have any economic control over the applicants or not, I have to see the pleadings. Pleadings in this case do not mention anything about economic control over the respondents in regard to the applicant. In view of this, I find that above two judgements, as relied upon by the learned counsel for the applicant, are not relevant in this case due to the fact that the applicant has failed to show anything about economic control over the respondents.

8. The applicant alleges that as a Lift Operator of Operation and Maintenance Section, he is performing the work of a perennial nature and it should be appropriate



(8)

if that work should be brought under the direct control of IASRI i.e. respondent No.3. For the same, he referred to pages 8 to 18 (Annex- A) of the paperbook and submitted that the signature of the Field Engineer on the documents show that the work being performed by the applicant is directly under the supervision of the respondents. However, there is nothing on record to show about the other aspects of duties and for this one aspect, I find that if an organisation had engaged certain persons to look after their maintenance through the contractors then the officials of the organisation have a right to see and check the performance of the employees working through the contractors and they have to satisfy themselves about the maintenance. Besides that I may also mention that in OA No.2148/1999 the Tribunal has also observed that "mere supervision of the work is not sufficient for lifting the veil" and the Court after discussing found the provision that the Contract Labour (Absorption and Regulation) Act had also provides a mention for the protection of certain rights of the employees, who are working through contractors for the maintenance, which the applicant is performing in any institution under the same Ministry. So, I find no reason to differ with the judgement given by the Principal Bench of the Tribunal in OA No.2148/1999 and since it is an admitted fact that he is working under the respondents through contractor, so there is no question that he may be considered for grant of temporary status under the DOP&T Scheme. Moreover, in cases of employees who are working through contractors,



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(9)

the Tribunals' do not have any jurisdiction to look into service conditions, as also observed by the Calcutta Bench of the Tribunal.

9. In view of the facts and circumstances of the case, the OA is devoid of merit and is dismissed. Accordingly, OA No.971/2001, OA No.972/2001, OA No.973/2001 and OA No.974/2001 are also dismissed. No costs.

10. Let a copy of this order be placed in OA No.971/2001, OA No.972/2001, OA No.973/2001 and OA No.974/2001.

(KULDIP SINGH)
MEMBER (J)

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