

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1281/99

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New Delhi this the 11th day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)

1. Shri Sukhbir
S/o Shri Brahm Prakash
R/o E-215, New Ranjit Nagar,
New Delhi-110 008.

2. Shri Kishan Kumar
S/o Late Shri Rajbir Singh,
R/o H.No. 806, Krishi Kunj,
Inderpuri, New Delhi.

..Applicant

(By Advocate: Shri Chittranjan Hati)

Versus

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

2. I.C.A.R.
through: The DG/Secretary,
Krishi Bhawan,
New Delhi.

3. National Bureau of Plant & Genetic
Resources through Director,
Pusa Campus, New Delhi.

4. R.C. Associates
through R.C. Asthana
F-271, Budh Nagar,
Inderpuri, New Delhi-110012.

....Respondents

(By Advocate: Ms. Geetanjali Goel)

ORDER (Oral)

By Reddy, J.-

The applicants were working as Sweepers since 1995 and 1996, engaged through a Contractor in National Bureau of Plant & Genetic Resources which is directly governed and controlled by the ICAR. The applicants however were removed by the Contractor on 16.5.99 and it was stated that they were replaced by some other employees. The applicants submit that the

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respondents cannot afford to dispense with the sweeping in the office and their job was to be treated as perenial and not seasonal. Learned counsel for applicant relies upon the Contract Labour Abolition & Regulation Act, 1970 (for short, the Act) which prohibits employment of Contract Labour on and from 1.3.77 and which enjoins the establishment to regularise the services of the applicants who have been working with the Contractor.

2. It is, however, the case of the respondents that the Contractor under whom the applicants had been working, was engaged by the 2nd respondent on contract basis. The contract was being renewed, periodically, for providing Personnel for cleaning and sanitation. It is their case that the applicants were engaged by the Contractor in 1998-99 and that the applicants are not the employees of the second respondent. It is further case of the respondents that the Act has no application since the establishment had at no time there were 20 or more workmen employed by the Contractor as contract labour and that the contractor was engaging, for the purpose of the 2nd respondents, only 5 or 6 people.

3. Heard the counsel for applicant and the respondents. It is not in dispute that the applicants were the employees of a Contractor. The only question is whether they were entitled for regularisation by R-3. The

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nature of work of the applicant is sweeping. Applicants filed certain certificates issued by the R.C. Associates dated 31.3.98 and 7.8.98 to show that the applicants 1 and 2 had worked as Safaiwala for the period 1.1.95 to 31.3.98 and 4.5.96 to 4.8.98 respectively. Thus the applicants have been working for quite some time with the Contractors.

4. Section-1 of the Act makes the Act applicable to every establishment in which 20 or more workmen are employed or were employed on any day as contract labour. Learned counsel for applicant produces certain copies of attendance rolls for the several months from 96 to 99 but there is nothing to show that the R.C. Associates had engaged 20 or more then 20 on any given day. The respondents filed certain documents to show that they had engaged the Contractor and the charges for cleaning and sanitation was also shown as Rs. 9,800/- P.M. for six persons and one supervisor. I am thus at a loss to give a clear finding that the Act has application in the present case, in the absence of any clear evidence or material placed before me as regards the number of employees engaged by the Contractor per day.

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5. In the circumstances, it can only be held that the applicants failed to show that the Act ^{is} ~~has~~ application ^{to} ~~len~~.

6. It is, however, open to the applicants to move the Labour Court and produce necessary material in this regard to satisfy that the act has application to the establishment.

7. The OA is dismissed subject to the above observations. No costs.

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.