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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No:1544/1999, with OA No.1546, 1547, 1548 & 1551/1999

New Delhi, this 28th day of March, 2001

Hon'ble Shri M.P. Singh, Member(A)

OA No.1544/1999

1. Balwinder Singh
   A/117, Lajpatnagar I, New Delhi
2. Vinod Kumar
   Village Kherikalan, Dt. Faridabad
3. Rakesh
   5, Dabar Colony B Block, Faridabad
4. Raj Kumar
   Vill. Bhatola, Teh & Dt. Faridabad .. Applicants

(By Shri Surinder Singh, Advocate)

versus

1. Director General, CPWD
   Nirman Bhavan, New Delhi
2. Executive Engineer
   CPWD, Faridabad
3. M/s. Chawla Sons
   A-117, Lajpatnagar, New Delhi
4. M/s. Reagon Refrigerator
   48/5, East Punjabi Bagh, New Delhi .. Respondents

OA No.1546/1999

Harpal Singh
655/34-35, Shanti Kunj
Jawahar Colony, Faridabad .. Applicant

versus

1. Director General, CPWD
   Nirman Bhavan, New Delhi
2. Executive Engineer
   CPWD, Faridabad
3. M/s. Laxmi Electrical, Faridabad
4. M/s. Virmani Electrical, Faridabad
5. Power Electricals, Faridabad .. Respondents

OA No.1547/1999

1. Prem Singh
   363, Bascluya Colony, Ward No.2
   Old Faridabad
2. Mahesh Kumar
   Vill. Daveli, Dt. Faridabad
3. Mukesh
   1741/II, NH IV, Faridabad

versus

1. Director General, CPWD
   Nirman Bhavan, New Delhi
2. Executive Engineer
   CPWD, Faridabad

3. M/s. M.L.Electrical, Faridabad
   5/132, Nishan Hut, NIT, Faridabad
4. M/s. K.K.Electrical,3NIT,Faridabad .. Respondents

OA No.1548/1999

1. Ram Gopal
   Vill. Devli, Dt. Faridabad
2. Devinder Sharma
   D-23/D-2, Molar Band Ames
   Badarpur, New Delhi
3. Ashok
   B-50, Zamrudpur, New Delhi
4. Shyam Lal
   D-23/D-2, Molar Band Ames
   Badarpur, New Delhi

versus

1. Director General, CPWD
   Nirman Bhavan, New Delhi
2. Executive Engineer
   CPWD, Faridabad
3. M/s. Power Electrical
   NH-5,Faridabad .. Respondents

OA No.1551/1999

Chat Ram
G-802, Mangolpuri
Delhi .. Applicant

versus

1. Director General, CPWD
   Nirman Bhavan, New Delhi
2. Executive Engineer
   CPWD, Faridabad
3. M/s. M.L. Electrical, Faridabad
   5/132, Nishan Hut, Faridabad .. Respondents

By Shri Surinder Singh, Advocate for all the applicants
By Shri S.M. Arif, Advocate for official respondents
By Shri Rahman, Advocate for private respondents

ORDER

The relief sought for, issues involved and the facts in all the aforesaid OAs are identical and therefore, with the consent of the counsels, I proceed to dispose of these OAs through a common order.

2. By the present OAs applicants seek direction to the official respondents (Central Public Works Department) to regularise their services and pay them arrears on

completion of 240 days of work under the official respondents. Admittedly, as rightly contended by the learned counsel for official respondents, these applicants have been engaged as contract labourers through the private contractors upon whom this Tribunal has no jurisdiction as per the provisions of Administrative Tribunals Act, 1985. These contract labourers cannot be termed as government servants or casual labours directly engaged by the official respondents through Employment Exchange and therefore these OAs are not maintainable before this Tribunal.

3. Citing the judgement of the Hon'ble Supreme Court in the case of Secretary, Haryana State Electricity Board Vs. Suresh & Ors. JT 1999(2) SC 435, the learned counsel for the applicants vehemently argued to contend that the applicants herein who are engaged for work of perennial nature are entitled for regularisation from the date they have completed 240 days. He has also placed reliance on the judgement of a coordinate Bench of this Tribunal dated 6.12.2000 by which OA No.878/2000 filed by the applicant working as contract labourer was allowed following the ratio of the judgement in the case of Haryana State Electricity Board (supra). The said case quoted by the applicants is distinguishable inasmuch as in that matter the applicants sought relief in the Labour Court under the Industrial Disputes Court. The Labour Court, while adjudicating the issue as to the justification of the termination of services of the workmen in terms of the order of reference under Section 10 of the Industrial Disputes Act, came to a definite conclusion on the basis of evidence tendered that the

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work force did in fact work for more than 240 days in the year and as a matter of fact, there was no dispute raised on that score by the Board and it is on this factual score that the Labour Court did record that the presence of an intermediary would not, however, alter the situation as regards the existence of relationship of employer and the workmen. Moreover, in that case it was not disputed that the work of the contract labourer was of perennial nature. In the present OAs respondents have stated that the second respondent is a prime agency for executing electrical jobs of various Central Government agencies, e.g. Income Tax, Central Excise, Provident Fund etc. and takes them into their hands whenever necessary sanction and funds are made available. These jobs are of temporary nature and very often various departments withdraw their work from the CPWD and allot it to other agencies or do themselves also. It is thus clear that the work of the applicants in the present OAs is not of perennial nature and therefore reliance placed on the judgement of Haryana State Electricity Board (supra) does not render any assistance to the applicants.

4. On the other hand, learned counsel for the respondents drew my attention to the decisions by other coordinate Benches of this Tribunal dated 5.12.2000 (OA No.581/2000), 5.12.2000 (OA 45/2000) and 8.2.2001 (OA 2231/1999) filed by similarly placed persons and all these OAs were dismissed as not maintainable.

5. On perusal of the material available before me, I do not find any order issued by the official respondents in respect of any of the applicants engaging them directly

as casual labourers or for that matter any attendance marked by the applicants in support of their working directly under the official respondents. Thus, there appears to be no relationship between the official respondents and the applicants and therefore this Tribunal has no jurisdiction to entertain these OAs.

6. Learned counsel for the respondents also drew my attention to the judgement of the Delhi High Court in CWP No.3741/1998 decided on 26.5.2000, wherein it has been held that "In case the doctrine of the appropriate government is not to abolish contract labour system in any of the works/jobs/process in any offices/ establishments of CPWD the effect of that would be that contract labour system is permissible and in that eventuality CPWD shall have the right to deal with these contract workers in any manner it deems fit".

7. In the light of what has been discussed above, I am of the considered view that the present OAs are not maintainable and therefore they are dismissed. No costs.

(M.P. Singh)
Member(A)

/gtv/

Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi-110001