

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1714/1999

Tuesday, this the 8th day of May, 2001

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

Shri Kanwar Pal, aged about 28 years  
S/O Shri Vikram Singh  
R/O Vill. Jatauli,  
P.O. Hassanpur  
Distt. Faridabad.

..Applicant

(By Advocate: Shri Surinder Singh)

Versus

1. The Director General  
C.P.W.D.  
Nirman Bhawan,  
New Delhi.
2. The Executive Engineer,  
C.P.W.D.  
Faridabad
3. M/s. S.K. Engineers,  
E-1644, Dahua Colony,  
NIT Faridabad.

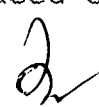
..Respondents

(By Advocate: Shri Q.F.Rehman for Shri S.M.Arif)

O R D E R (ORAL)

The applicant's case is that he has been working as Enquiry Clerk since 1.5.1998 on payment of salary on consolidated basis @ Rs.1500/- PM. The post, according to him, was that of a Helper. He was deployed through the agency of a contractor, respondent No.3 herein. The work of Enquiry Clerk, according to him, is of a perennial nature. Thus, relying on the judgement of the Hon'ble Supreme Court in the case of Secretary, Haryana State Electricity Board Vs. Suresh & Ors. etc., reported as JT 1999 (2) SC 435, the applicant prays for regularization of his services from the date he completed 240 days of working as Enquiry Clerk/Helper.

2. I have heard the learned counsel on either side and have perused the material placed on record.



[2]

3. Admittedly, the applicant has been engaged through the medium of a contractor, namely, M/s. S.K. Engineers of Faridabad. Thus, the relationship of master and servant, insofar as the respondent No.2 and the applicant are concerned, has never come into existence. He cannot, therefore, be treated as an employee of the CPWD. According to the respondents, the said contractor, being respondent No.3 herein, is an electrical contractor and the applicant has been working for the said contractor. The respondent No.2 is the prime agency of the Govt. for executing electrical jobs arising in the buildings etc. of various Central Govt. agencies such as Income Tax, Central Excise, Provident Fund etc., and the same are taken in hands by the said official respondent depending on the availability of funds and requisite sanctions. The jobs taken in hand by the official respondent are of a temporary nature and often the work assigned to the CPWD is withdrawn from them by the various departments and allotted to other agencies. Some times, the departments concerned do the job themselves. The official respondent No.2 on receiving electrical jobs as above in turn award the work to various contractors, including M/s. S.K. Engineers, who is respondent No.3, herein. The jobs so assigned to contractors are for a specified period of time. It is likely that the applicant has been employed by the said contractor. However, not being employers themselves, the official respondent No.2 has not maintained any record in respect of the service rendered by the applicant. The appointing authority in the case of the applicant is the said contractor and not the official respondent No.2.

dr

[3]

The official respondent No.2 does not exercise any administrative control over the applicant. The learned counsel appearing on behalf of the respondents has, in the circumstances, advanced the plea that the electrical jobs undertaken by the official respondent No.2 cannot by any stretch of imagination, be termed as work of a perennial nature thereby attracting the learned observations made by the Supreme Court in Secretary, Haryana State Electricity Board's case (supra).

4. The aforesaid contractor, respondent No.3 herein has filed a separate reply in which it has been averred that the applicant has been working with him and that the official respondent Nos. 1 & 2 have nothing at all to do with the employment of the applicant. According to the said private respondent No.3, this Tribunal has, therefore, no jurisdiction to entertain and adjudicate upon the present OA. The services of the applicant are utilized by the said private respondent in contracts relating to different departments and the applicant is, to all intents and purposes his own employee. The applicant is also paid by the same private respondent.

5. The learned counsel appearing for the official respondents has also raised the plea of jurisdiction on the ground that the applicant resides in Faridabad and the official respondent No.2 has his office also at Faridabad. Similarly, the private respondent No.3 has also given his address at Faridabad. The applicant does not seem to have filed any petition for transfer of the OA to the Principal Bench. I agree with the learned



[4]

counsel for the respondents that, in the circumstances, this Bench cannot have jurisdiction to proceed with this case.

6. Insofar as the judgement rendered by the Supreme Court in Secretary, Haryana State Electricity Board's case (supra) is concerned, I find that the same would find application only when the work done is of a perennial nature. The same is not true of <sup>the</sup> present case. Here, as already stated, the electrical jobs are executed off and on and not on a perennial basis. Moreover, the said jobs are executed not in one department only but in several other departments as well, as submitted by the private respondent No.3. Thus, on the facts of the present case, it is not possible to hold that the private contractor was a mere name-lender and had simply procured labour for the CPWD from the open market. The contractor in the present case is not a broker or an agent of the CPWD. The ratio of the aforesaid case decided by the Supreme Court will, therefore, not apply in the facts and circumstances of the present case.

7. For all the reasons stated in the preceding paragraphs, the OA is found to be devoid of merit and is accordingly dismissed without any order as to costs.

*S.A.T. Rizvi*

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

/sunil/