

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO.2231 OF 1999

New Delhi this the 8th February, 2001.

HON'BLE SHRI SHANKER RAJU, MEMBER(J)

1. Shri Manohar Paswan
S/o Shri Inder Dev Paswan
K-1217, Mangol Puri, New Delhi 110083.
2. Shri Babu Chand Paswan,
S/o Shri Raghuni Paswan
K-90, Mangol Puri, Delhi-110083.
3. Shri Seva Singh
S/o Shri Kishan,
NO.1 Old 5, Chidiya Colony,
I.A.R.I. Pusa Complex, New Delhi-110062.
4. Shri Vinod Chamoli,
S/o Shri Jevan Lal Chamoli,
Street K-12/7, West Ghonda, Delhi-110053.
5. Shri Hans Raj,
S/o Shri Banwari Lal, Sahabad Daulatpur,
Nursing Home Street, New Delhi-110042.
6. Shri Manjeet Singh
S/o Shri Zile Singh
Sector 5Q, No.328,
R.K.Puram, New Delhi-110022.
7. Moh. Shahbaz Khan,
S/o Moh.Amir Khan, F/188, Khajuri Khas,
Street No.11, Delhi-110094.
8. Shri Kunal Kumar,
S/o Shri Amar Nath, C-202, Kotla Mubarakpur,
Nanak Chand Basti, New Delhi-110003.
9. Shri Vikas Sharma,
S/o Shri Radhey Shayam Sharma,
397, Kucha Bulaki Begam, Dariba Kalan, Delhi-110006.
10. Shri Manjit,
S/o Shri Bhoj Raj, Vill. Arnitha, Mansurpur,
P O Khurja, Distt. Buladshahar, U.P.
11. Shri Shammi,
S/o Shri Shyam Lal, H.N.8016,
Street No.10, Multani Dhanda, Pahar Ganj,
New Delhi-110055.

..Applicants

(By Advocate: Shri B.S. Oberoi)

Versus

1. Union of India
Through Director General
Doordarshan,
Mandi House,
New Delhi-110001.
2. Director,
Delhi Doordarshan Kendra,
Akashwani Bhawan,
Parliament Street,
New Delhi

..Respondents

(By Advocate:Shri S.M. Arif)

Order(Oral)

By Shri Shanker Raju, Member(J)

The applicants, eleven in number, have sought the grant of temporary status as they had worked for 240 days and also for parity of their pay with that of regular employees. The applicants' contention is that they have been engaged by the respondents from time to time whereas in the counter filed by the respondents they have denied that the applicants have been engaged by them as casual labourers. Rather it has been stated that they were employees of contractor and has no locus standi to approach this Tribunal. The respondents have produced a certificate whereby it has been certified by M/s Navnidh Carriers that eleven applicants in OA 2231/1999 are employees booked by them on payments and Doordarshan Kendra, New Delhi or any other Department has nothing to do with their employment, as they have never been engaged by them. The applicant's counsel produces a copy of letter written by Dy. Director(Admn.) whereby it has been stated that applicants have been shown to be employed by one M/s Krishna Enterprises, LaxmiNagar, Delhi.

2. MA 220/2001 has been filed by the applicants praying for transfer of their case to appropriate Labour Court. Learned counsel of the respondents has drawn our attention to two orders passed by this Tribunal dated 5.12.2000 in OAs 581/2000 and 45/2000. In these orders similarly situated applicants approached this Tribunal for an order for grant of temporary status and the Tribunal by observing that there is no relation of master and servant between respondents and applicants and the fact that they are working under the

Contractor rejected and dismissed the case as not maintainable as barred by the provisions of Section 21 of the Administrative Tribunals Act 1985.

3. The learned counsel of the applicants in view of the what has been stated above has drawn our attention to judgement of CAT Patna in Sudhir Mahto and Others vs. Union of India and Others 2000(3) SLJ (CAT) 1 where it was held that the casual labourers belonging to department declared industry under the Industrial Disputes Act, they have an alternate remedy under the ID Act and the CAT has no jurisdiction. Further the applicants have also relied upon the ratio laid down by Hon'ble High Court of Delhi in Jaspal & Others Vs. Commercial Officer/GM Airports Authority of India and Others 2000 (2) SLJ 388 by contending that it is left to the appropriate authority to decide the question whether contract is a sham or camouflage is Labour Court & not the Hon'ble Tribunal.

4. The learned counsel of the applicant has also drawn our attention to judgement of Delhi High Court in ICM Engineering Workers Union and Others Vs. Union of India & Others 89 (2001) Delhi Law Times 529 and contended that in that case also Hon'ble High Court had protected the contract labour where the observations have been made regarding their directions being under the labour court but the certain directions have been issued to protect their interest.

5. We have carefully gone through the rival contentions of the parties and perused the material on record.

6. The prayer of the applicant for withdrawal of this OA and also keeping in view the ratio laid down by this Hon'ble Tribunal in OA 581/2000(supra), we have no jurisdiction to entertain this OA as same is not maintainable. As regards, the issue of deciding the factum whether the applicants are contract labour or not the ratio cited by the learned counsel of the applicant (supra) show that this should be dealt within an appropriate forum, and petitioners therein have been protected till the time they approach the appropriate forum. As we have already held that the OA is not maintainable as Tribunal has no jurisdiction to entertain this OA, we reject the request of the applicants for giving the protection till they approach an appropriate forum. The OA is dismissed as not maintainable. No costs.



(Shanker Raju)
Member(J)

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