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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.933/99
M.A.No.872/99

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

New Delhi, this the 12th day of December, 2000

1. Ved Prakash
s/o Shri Haari Lal
r/o 6/157, Kichiripur
Delhi - 91.
2. Kalicharan
s/o Shri Chhotan Singh
r/o 90/20, Salimgarh Rly. Colony
Lal Kila, Delhi.
3. Raj Kumar
s/o Shri Khiladi Ram
r/o 6/92, Khicharipur
Delhi - 91.
4. Sunil Kumar
s/o Shri Ram Charan
r/o 6/92, Khicharipur
Delhi.

... Applicants

(By Shri R.K.Shukla, Advocate)

Vs.

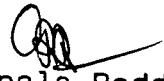
Govt. of NCT of Delhi, through

1. Chief Secretary
5, Sham Nath Marg
Delhi.
2. Commissioner of Excise & Entertainment
L & N Block
Vikas Bhavan
New Delhi.

... Respondents

(By Shri Rajinder Pandita, Advocate)

1. To be referred to the reporter or not - Yes/~~No~~
2. To be circulated to the benches of the
Tribunal. - ~~Yes~~/No


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

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... Respondents

(By Shri Rajinder Pandita, Advocate)

O R D E R (Oral)

The case of the applicants, four in number, is that initially they have been working as Safai Wala with Respondent No.2 but later they were entrusted to a Contractor, M/s Evershine House Keeping, which has been engaged without break for doing the work of Sanitary, etc.. It is their case that they have been working since 1995-96 and they are working continuously without break with Respondent No.2 on



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payment of Rs.1200/- initially and Rs.1500/- thereafter till 1999. They had completed 240 days in a calender year, hence they are entitled for temporary status and further regularisation against the Group 'D' post.

2. It is however the case of the respondents that the applicants have never been engaged by the Commissioner of Excise & Entertainment, Respondent No.2 herein. The respondents have awarded the work of sanitation to M/s Evershine House Keeping and for the work they have done they were paid directly by the Contractors and no amounts have been paid to the workers by Respondent No.2. They are employees of the Contractors and cannot have any claim against the respondents.

3. Heard the counsel for the applicants and the respondents. I have gone through the pleadings carefully and have also gone through the submissions made by the learned counsel for the respondents carefully.

4. Though it is denied by the respondents that the applicants are not their workers and they are the workers of the Contractors, it is clear from the copies of the attendance register filed by the applicants that they were shown to have been worked from 1997 to 1999. The averment that they have been

entrusted to a Contractor is not in dispute. It is however the case of the applicants that they were initially appointed with Respondent No.2 but subsequently settled under the Contractors which has been engaged by the respondents. The question therefore is whether the engagement of contractors for doing the work of Safai Wala in the office of Respondent No.2 is permissible under the Contract Labour (Regulation and Abolition) Act, 1970 (for short, Act). It is clear from the averments made in the reply that the Contractor has been engaged for the work of sanitation and M/s Evershine House Keeping was got it done by the applicants on a six days in a week and in shifts as per weekly duty schedule. Thus, it is clear that the nature of work that was entrusted to a Contractor is perennial and not seasonal. Section 12 of the Act specifically prohibits/abolishes the perennial nature of work to be entrusted to the Contractors. It is not shown that the Contractors are licensed Contractors under Section 12 of the Act. In Secretary, Haryana State Electricity Board Vs. Suresh & Ors., JT 1999(2) SC 435, the Supreme Court, considering the scope of the Act, particularly Section 12 held that entrustment to a Contractor of the work of perennial nature was not permissible, unless the Contractor was a licensed under Section 12 of the Act. Since it is not shown that the Contractor was a licensed contractor, it has to be held that the entrustment of the work of sanitation, etc. to the Contractor is illegal and is liable to be set aside.

5. The learned counsel for the respondents relies upon the Judgment of the High Court in CW No.505/2000, dated 23.5.2000. That case will not be of any help to the applicant as it was found that, in that case, the Contractor was a licensed Contractor under Section 12 of the Act. In Suman Jain Vs. Union of India & Others, OA No.1739/99, the question of permissibility of the work to the Contractor of a work of perennial nature was not gone into. In Rail Yatri Niwas Staff Mazdoor Union Vs. Union of India & Others, OA No.1099/98 also the above judgement of the Supreme Court was not considered.

6. In view of the foregoing discussion, I hold that the applicants are the employees of the Department. They are therefore entitled to temporary status and regularisation in accordance with the relevant Scheme. The OA is accordingly allowed, with costs of Rs.750/- (Rupees Seven Hundred and Fifty Only).


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/