

(14)

Central Administrative Tribunal
Principal Bench

O.A.No.1192/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 4th day of June, 1999

Shri Gurmeet Singh
s/o Shri Charan Singh
r/o H.No.232, Hari Nagar Ashram
New Delhi - 110 014.

... Applicant

(By Shri Surinder Singh, Advocate)

Vs.

1. The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi - 110 011.
2. The Director General of Works
C.P.W.D., Nirman Bhawan
New Delhi - 110 011.
3. The Executive Engineer
Central Civil Division No.II
C.P.W.D., New CGO Complex NH IV
Faridabad.

.... Respondents

(By Shri K.R.Sachdeva, Advocate)

O R D E R

The applicant claims that he had been engaged as Hand Receipt Driver for various periods between 1990-98 through contractors by the various divisions of Central Public Works Department. During 1990 he also worked in Border Fencing Division and an assurance had been given by the respondents that his services would be regularised. He is aggrieved that instead of regularising his services the respondents have instead terminated his engagement by the impugned order, Annexure-A1 dated 23.4.1998.

2. The respondents in their reply have denied that the applicant was directly engaged by them and that the relationship of master and servant existed between the respondents and the applicant. They submit that as

dr

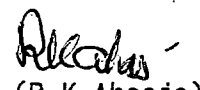
they had a need for Drivers on a temporary basis they had obtained quotations from various contractors and those who offered lowest quotations were given the work order. The applicant had been engaged by the Contractors. So far as the respondents are concerned they had made the payments only to the contractors and all payments to the applicant were a matter between the Contractor and the applicant. They also state that the impugned order is only an order of appointment of a regular driver and the consequent intimation to the contractor that the services of the applicant were no longer required.

3. I have heard the counsel. Shri Surinder Singh, learned counsel for the applicant relied on the Supreme Court's Judgment in Secretary, Haryana State Electricity Board Vs. Suresh and Others, JT 1999(2) SC 435 in which it was held that so called contract system was a mere camouflage, a smoke screen and a veil which could easily be pierced and the real contractual relationship between the employer and the employee could be clearly visualised. However this is of no avail to the case of the applicant. In Secretary, Haryana State Electricity Board and Others (Supra) the observations of the Hon'ble Supreme Court were based on the facts of the case as determined by the Labour which enquired into the question whether there was any genuine contract prevailing. This Tribunal, on the other hand, in judicial review cannot go into a controversy on disputed facts as the respondents have denied the submissions of the applicant.

4. It is also seen from the order, at Annexure-A1 that a regular Driver has been appointed resulting in the termination of the engagement of the applicant albeit through the contractor. In a similar OA 651/98, (Harbir Singh Vs. Union of India & Others) Annexure R-3 the Tribunal held in similar facts and circumstances, where drivers were engaged through the contractor, that no relief could be afforded as it was not shown that any vacancies were available. In this case also the applicant does not even allege that any regular vacancies are available against which the applicant could be considered.

5. The applicant has also contended that one of the persons with lessor service and similarly engaged by the applicants has since been regularised. However in this case the respondents have stated that he has been engaged against a vacancy available for OBC, the benefit of which cannot be given to the applicant.

6. In the result, as the respondents dispute the contention of the applicant that his engagement is in the nature of a direct employment, the Tribunal cannot enter into any controversy regarding disputed facts, by appreciating the evidence produced by either party. The relief sought for by the applicant therefore cannot be granted. Accordingly the OA is dismissed. No costs.


(R.K. Ahooja)
Member(A)

/rao/