

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 705 of 2000

New Delhi, this the 10th day of July, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

(S)

Shri Vinod Kumar,
aged about 20-1/2 years
S/o Shri Puran Lal
R/o Vill. Bukhanpur,
P.O. Muchhgan
Distt. Faridabad (Haryana)

-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 Virbani Electrical Corporation
3 A UU/1 NIT
Faridabad

- RESPONDENTS

(By Advocate: Shri S.M. Arif)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant in this OA claims that he has been working under respondents as Electrician Helper since 27.2.99 on consolidated salary of Rs.900/- per month. The respondents had adopted a modus operandi to deploy the workmen through the aegis of contractor which is alleged to be a camouflage and therefore, it is claimed that in view of the Hon'ble Supreme Court's judgement in the case of Secretary, Haryana Electricity Board vs. Suresh & ors., JT 1999 (2) SC 435, the applicant is entitled to be regularised.

2. The claim of the applicant is refuted by the respondents. They have submitted that the applicant had been employed through M/s Virbani Electrical Corporation i.e.

(Signature)

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respondent no.3 whenever work of some electrical job was to be performed in the office of respondents 1&2. It is stated that since the contractor had been employing the applicant and paying him the salary, so it is the contractor who is responsible and there is no relationship of master and servant between the respondents and the applicant. This OA, therefore, deserves to be dismissed.

3. I have heard learned counsel for the parties and gone through the records.

4. Learned counsel for the applicant submitted that in view of the judgement in the case of Haryana Electricity Board (supra), this camouflaged contract for employing casual labourers through contractor is illegal since the work available with the department is of perennial nature. It is submitted that since the Supreme Court has held in the above referred case that intermediary agency has to be kept out, so the same principle should be applied over here and it should be treated as if the applicant had been directly employed by the respondents and after serving for 240 days in a year, had become entitled for conferment of temporary status and regularisation in accordance with Govt. of India Scheme dated 10.9.93.

5. I have considered the contentions raised by the applicant's counsel and may mention that in the entire OA, the applicant has nowhere pleaded for lifting of the veil from the camouflaged contract vide which he had been deployed in the respondents' office. On the contrary, M/s Virbani Electrical

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Corporation who have been impleaded as respondent no.3, have in their reply pleaded that they themselves had been deploying the applicant and respondents 1&2 have nothing to do with the employment of applicant. Respondent no.3 has also submitted that services of the applicant had been utilised in different departments of which they were having contract. These contentions of respondent no.3 have not been controverted by the applicant by a rejoinder. It is submitted by respondent no.3 that the applicant had been deployed in the office of respondents 1&2 for the maintenance of electrical installations and if they were providing their own employees to lookafter the electrical installations in their office, those employees could not be said to be the employees of respondents 1&2. I find that neither in the pleadings nor in the documents annexed with the OA, there is any material which may call upon to lift the veil from the provisions of Contract Labour (Regulation and Abolition) Act, 1970.

6. I may also mention that a co-ordinate Bench of this Tribunal in OA-1544/99 with connected cases, has already held that this court has no jurisdiction to entertain a case where the applicant has been employed through a private agency. The applicant has failed to establish that he had been employed through a camouflaged contract by respondents 1&2 and that the veil has to be lifted from the contract to see as to who is the real employer. On the contrary, private respondent no.3 has filed an affidavit stating that he is the real employer which statement has not been controverted by the applicant. So I am of the considered opinion that the applicant has failed to establish that there exists any relationship of master and

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servant between the respondents and him.

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7. In view of the above discussion, I find no merit in this OA which is accordingly dismissed. No costs.

Kuldeep Singh
(Kuldip Singh)
Member (Judl.)

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