



**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA No.323/2019
MA No. 2671/2020
MA No. 383/2019**

This the 15th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Kuldeep, Security Guard,
Aged about 39 years, 'D'
S/o Sh. Jaggan Singh,
R/o 160 Ghondly, Krishna Nagar
New Delhi-110051
2. Chandra Sen Srivastava, Security Guard,
Aged about 49 years, 'D'
S/o Late Sh. Siyaram,
R/o D-219, Budh Nagar, Loni, U.P
3. Dilram, Security Guard,
Aged about 48 years, 'D'
S/o Late Sh. Firtam Yadav,,
R/o Village Belahatha,
Post-Chandesar, Azamgarh,
U.P.-276128
4. Mahavir Singh, Security Guard,
Aged about 48 years, 'D'
S/o Late Sh. Fagni Singh,
R/o D-10, South Anaekli,
Gali No.7, Krishna Nagar H.O.,
East Delhi, New Delhi-110051
5. Dig Pal Possessing, Security Guard,
Aged about 39 years, 'D'
S/o Sh. Kundan Singh,
R/o 158, New Khalsi,
Uttarkashi, Kalsi,
Uttarakhand-249196



6. Hawaldar Singh, Security Guard,
Aged about 37 years, 'D'
S/o Sh. Krishan Chandra Singh,
R/o H. No.145, Atwa Kataya Khas,
Ahirori, Hardoi, U.P.-241001
7. Shyam Kumar, Security Guard,
Aged about 49 years, 'D'
S/o Late Sh. Budh Prakash,
R/o E-503, Amar Colony,
Gopal Pur, New Delhi-110094
8. Ajad Kumar, Security Guard,
Aged about 33 years, 'D'
S/o Sh. Kalar Singh,
R/o H. No.-1/4026, Gali No.5,
Rohtas Nagar, Ram Nagar Extension,
Shahdara, Delhi-110032

...Applicants

(By Advocate: Shri M.K. Bhardwaj)

Vs.

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
New Secretariat,
I.P. Estate, New Delhi
2. The Principal Secretary,
Department of Health,
Govt. of NCT of Delhi
New Secretariat,
I.P. Estate, New Delhi.
3. Directorate of Health Services,
Through its Director,
Govt. of NCT of Delhi,
DGD Building, Karkardooma,
Delhi-110092

...Respondents

(By Advocate: Shri Amit Anand)



ORDER (ORAL)

Mr. R.N. Singh, Member (J) :-

The present OA has been filed by the applicants allegedly on being aggrieved by the action of the respondents in replacing them with another set of contractual employees to be recruited through an outside agency. They have prayed for the following reliefs:-

- “ (i) To declare the action of the respondents in terminating the services of applicants in order to appoint another set of contractual staff through outside agency i.e. ICSIL in place of applicants as illegal and unjustified and direct the respondents to continue the applicants as Security Guard in the same capacity in which they have been appointed till their regularization as per the regularization scheme to be formulated by Govt. of NCT of Delhi.
- (ii) To declare the action of respondents in resorting to Contract Labour System for discharging the perennial nature of work attached to the post of Security Guard as illegal and violative of Contract Labour (Regulation & Abolition) Act, 1970 as illegal, arbitrary and direct the respondents to continue the applicants as Security Guards in the same capacity and given them same pay and allowances as paid to the regular Security Guards on the principle of equal pay for equal work with all consequential benefits including arrears of pay.



- (iii) To quash and set aside Annexure A-1 and direct the respondents not to change the terms & conditions of appointment of applicants by forcing them to get registered with ICSIL for continuation of service as Security Guards through ICSIL on contract basis.
- (iv) To pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- (v) To allow the OA with cost.”

2. Pursuant to the notice from this Tribunal, the respondents have filed their counter reply and have denied the claim of the applicants. Mr. Amit Anand, learned counsel for respondents submits that the applicants in the present OA are no longer working under the respondents in any capacity.

3. Rejoinder has also been filed by the applicants. It is submitted by the learned counsels for the parties that the issue raised in the present OA is identical to that in OA Nos.2866/2017, 694/2019, 939/2018, 1759/2019, 2335/2018, 2789/2017, 2808/2017, 3284/2018, 3298/2018, 3396/2018, 3461/2018, 3508/2019, 3792/2017, 3855/2018, 4134/2017, 4317/2017 & 4408/2018. The same were dismissed by a common order/judgment dated 10.01.2020 (Annexure M-3). The applicants, therein, approached



the Hon'ble High Court of Delhi by way of Writ Petitions and the said Writ Petitions being No. W.P.(C) 842/2020 etc. have been disposed of by the Hon'ble High Court of Delhi vide order/judgment dated 06.02.2020, which reads as under:-

“15. Upon perusal of Cabinet Decision dated 22.03.2016 referred to above it is evident that the Cabinet was concerned about the delay in the payment of wages to workers engaged by government departments and organizations, either directly or outsourced through private firms/ agencies. It was in this context that the Cabinet decided to put in place certain measures to ensure that all contractual employees, whether employed directly by the Government or through a contractor whose services have been hired by the Government, are paid wages regularly and punctually. There is therefore nothing in the Cabinet Decision dated 22.03.2016 to warrant the conclusion that the Cabinet had decided that all contractual employees would be hired directly by the Government and there would be no outsourcing of contractual employees through private firms/agencies/contractors. Accordingly, there is no basis to say that after Cabinet Decision dated 22.03.2016, the petitioners must be deemed to have been engaged on contractual basis directly by the Delhi Government.

16. In so far as office order dated 27.02.2017 is concerned, we are inclined to agree with the submission made by Ms. Ahlawat, learned counsel appearing on behalf of the respondents that the office order was by way of a one-time measure, for engagement of certain persons on daily wage basis for a certain time of period; and that office order 27.02.2017 did not give to the petitioner any right to seek engagement on the same basis.

17. We are also informed that in the meantime a tender had been issued by the respondents, consequent whereupon a contractor has been selected through whom the services of sweeper-cum-chowkidars and nursing orderlies etc. would be engaged by the Delhi government; but by reason of stay order issued by the Tribunal the contract with the selected contractor could not be finalized.

18. Accordingly, we find no merit in the petitioners' contention that they must be deemed to have become contractual employees of the respondents, which contention we hereby reject. However, we direct that the Delhi Government is bound to comply with the Cabinet



Decision No.2323 dated 22.03.2016, which we have extracted above; and to ensure that all decisions contained in the Cabinet Decision dated 22.03.2016 shall be scrupulously and punctually enforced, in order to secure the rights of contractual employees, whether hired directly by the Government or engaged by outsourcing through private firms/ agencies/ contractors.

19. Resultantly, the present writ petitions are disposed of in the above terms. The petitioners shall report to the respective contractors, as and when they are appointed.”

4. Learned counsels for the parties submit that the present OA may also be disposed of in terms of the directions of the Hon'ble High Court of Delhi in the common order/judgment dated 06.02.2020 under reference.

5. In view of the aforesaid facts and circumstances and with the consent of the learned counsel for the parties, the present OA is also disposed of in terms of the order/judgment dated 06.02.2020 of the Hon'ble High Court of Delhi under reference.

Pending MAs also stand disposed of.

(R.N. Singh)
Member (J)

(A.K. Bishnoi)
Member (A)

/cc/uma/ns