

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.2062/91

DATE OF DECISION: 13.05.1992.

HARI SINGH & ANOTHER

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:-

THE HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANTS SHRI S.S. TEWARI, COUNSEL.

FOR THE RESPONDENTS SHRI P.H. RAMCHANDANI, SENIOR
COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN (J))

We have heard the learned counsel for both parties and have gone through the records of the case carefully.

2. The two applicants before us claim to be the employees of the Central Public Works Department (CPWD) having been engaged as Fitters on daily wages basis. They have prayed for their regularisation and for giving them 'equal pay for equal work'.

3. On 10.9.91, when the Application came up for admission an interim order was passed, directing the respondents not to dispense with the services of the applicants. On 24.9.1991, the learned counsel for the respondents appeared and stated that both the applicants have been engaged by a contractor and that they are also paid by the contractor and not by the respondents. He further stated that he would produce the relevant records to substantiate this.

contd...2.

4. The applicants are relying upon the identity cards issued to them by the CPWD, copies of which are at pages 13-20 of the paperbook. They are also relying upon a testimonial given by the Assistant Engineer of Sub-Division IV, Construction Division VI, CPWD, according to which one of the applicants had worked in that Division for the period from 12.2.1985 to 1.10.1985 on muster roll. The learned counsel for the applicants has also drawn our attention to the reply given by the Minister of State for Urban Development on the Floor of the Rajya Sabha on 8.5.1992 according to which "as far as electrical side is concerned, the maintenance and operation of water supply scheme is being done departmentally and as far as civil side maintenance operation and water supply claim is concerned, it is being done through contract, as there is no workcharged and muster roll staff available."

5. The learned counsel for the respondents stated that the applicants had never been engaged by the respondents as Fitters or daily wagers and that they have never been paid by the respondents. According to the respondents the applicants are working with the contractors who are assigned contract~~s~~ to execute certain specified work in the CPWD from time to time. With regard to the identity cards, issued to the applicants it has been explained in the counter-affidavit filed by the respondents that these identity cards have been issued to enable the applicants to enter prohibited areas of the respondents and that it does not in any way show that the applicants are in Government service. With regard to the testimonial given by the Assistant Engineer and relied upon by the applicants, Executive Engineer, Shri R.N. Tyagi who is present in the Court states that the applicants had never ~~been engaged~~ ^{been engaged} ~~been indicated~~ in the MBR Division of the CPWD.

6. The learned counsel for the applicant has relied upon the decision of the Supreme Court in Catering Cleaners of Southern Railway Vs. Union of India - AIR 1987 SC 777 and in Munna Khan & Ors. Vs. Union of India & Others, 1989 Supp. (2) SCC 1990. The Supreme Court had directed the Central Government to take appropriate action in the matter of prohibiting the employment of contract labourers in the work of cleaning, catering establishment and pantry cars in the Railways.

7. After hearing both sides, we are satisfied that the applicants cannot be granted any relief in the present Application. The Supreme Court has recently held in **Dena Nath & Ors. Vs. National Fertilizers Ltd. & Ors. 1991 (2) SCALE 1081 at page 1088** that "any proceedings under Article 226 of the Constitution merely because contractor or the employer had violated any provision of the Act or the Rules, the Court could not issue any mandamus for deeming the contract labour as having become the employee of the principal employer."

8. In our view, the Application is devoid of any merit and the same is dismissed. Interim orders passed on 10.9.1991 and continued thereafter are hereby vacated.

9. There will be no order as to costs.


(I.K. RASGOTRA)

MEMBER(A)


(P.K. KARTHA)
VICE-CHAIRMAN

May 13, 1992.

SKK
130592

From:-

The Registrar (Judicial)
Supreme Court of India
New Delhi.

6
D.NO. 3635/92 /SEC. 1
SUPREME COURT OF INDIA
NEW DELHI

DATED:- 21/11/92

To The Registrar
Capital Administrative Tribunal
Principal Bench
Faridkot House
Copernicus Marg,
New Delhi.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL/CRL.) NO. 11786/92
(Petition under Article 136 (1) of the Constitution of India
from the judgment and order dated ^{as on 13} 10.5.92
of the ~~High Court of Judicature at~~ ^{at} C.A.T. at ^{new} Delhi
in C.A. No. 2062/91).

Hari Singh & Anr.

...PETITIONER(S)

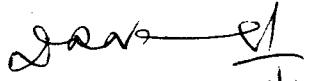
- VERSUS -

Judl. I Union of India & ors. ...RESPONDENT(S)

446/fe
Sir,
8/12.

I am directed to inform you that the petition above
mentioned filed in the Supreme Court was dismissed by the
Court on 11.11.92.

Yours faithfully


11/11/92
For Registrar