

Reserved

Central Administrative Tribunal
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 15th Day of September, 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Dayal, A.M.

Original Application No. 702 of 1999

along with

Original Application No. 703 of 1999

along with

Original Application No. 704 of 1999

along with

Original Application No. 705 of 1999

O.A. 702/99

1. Adya Prasad Pandey aged about 41 years
son of Late Ram Deo Pandey R/O village
Chandpur Post Mahgoq, Varanasi.
2. Sur Shyam aged about 38 years Shri Puniya
Ram Singh R/O village Fatehpur Post, Pursultam
Distt. Mirzapur.

. . . Applicant.

By Sri A.K.Dave, Adv.

Versus

1. The Union of India through Principal Secretary
Ministry of Post and Telecommunication, Deptt.
Parliament Street, New Delhi.
2. The General Manager, Telecommunication,
Tallia Bagh, Varanasi.
3. The S.D.E. Phones, Chunar, Telephone Exchange
Distt. Mirzapur.
4. M/S Security and Protection Services, Gayatri
Nagar Pandeypur, Varanasi through its Director
Sri S.N. Singh.

. . . Respondents.

By Sri S.Chaturgedi, Adv.

O.A. 703/99

1. Ram bali Singh aged about 27 years
son of Shri Shiv Avdaar Singh.
2. Subhash Singh aged about 36 years
son of Shri Shiv Avdhar Singh,

Both residents of village Fattepur,
Purshottampur, P.S. Adlahat,
Distt. Mirzapur.

. . . Applicants.

Counsel for the applicants: Sri A.K. Dave, Adv.

Versus

1. The Union of India through
The Principal Secretary,
Ministry of Post & Telecommunication,
Parliament street, New Delhi.
2. The General Manager, Telecommunication,
Varanasi.
3. The Sub Divisional Engineer,
(Phones) Ahrora Telephone Exchange,
Chunar, Distt. Mirzapur.
4. M/S Security and Protection Service,
Gayatri Nagar, Pandeypur, Varanasi.
through its Director Shri S.N. Singh.

. . . Respondents.

Counsel for the Respondents:- Sri S. Chaturvedi, Adv.

O.A. 704/99

Hirday Narain Singh aged about 28 years,
s/o Shankar Singh resident of Fatehpur, Post Piperiya,
P.S. Chakia, Distt. Chandauli.

. . . Applicant.

Counsel for the applicant: Sri A.K. Dave, Adv.

Versus

1. The Union of India through Principal Secretary, Ministry of Post and Telecommunication Department, Parliament Street, New Delhi.
2. The General Manager, Telecommunication, Tallia Bagh, Varanasi.
3. The sub Divisional Engineer (Phones) Telephone Exchange Saidpur Distt. Chandauli.
4. M/S Security and Protection Service, Gayatri Nagar, Pandeypur, Varanasi, through its Director Sri S.N. Singh.

. . . Respondents.

Counsel for the Respondents: Sri S.C. Mishra, Adv.

O.A. 705/99

1. Devi Prasad alias Devi Shankar Pandey, aged about 38 years s/o Late Ram Deo Pandey, R/O Village Chandapur, P.O. Mahgaon, Distt. Varanasi.
2. Durga Prasad alias Durga Shankar Pandey, aged about 42 years s/o Late Ram Deo Pandey, R/O Village Chandapur, P.O. Mahgaon, Distt. Varanasi.
3. Amar Nath Singh aged about 41 years, S/O Sri Vikram Singh r/o village Gauri, P.O. Bahaur, Distt. Mirzapur.

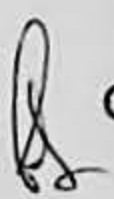
. . . Applicants.

Counsel for the applicants: Sri A.K.Dave, Adv.

Versus

1. The Union of India through Principal Secretary, Ministry of Post and Tele Communication Department, Parliament Street, New Delhi.
2. The General Manager, Tele Communication, Varanasi.
3. the S.D.E., Phones, Telephone Exchange Ram Nagar, Varanasi.
4. M/S Security and Protection Service, Gayatri Nagar, Pandeypur, Varanasi, through its Director Shri S.N. Singh.

. . . Respondents.

 Counsel for the Respondents: Sri S.C. Mishra, Adv.

Order (Reserved)

(By Hon'ble Mr. S. Dayal, Member (A.))

This is a bunch of four O.As. which have been heard together as there are common issues of fact and law are involved in these cases and common order is being passed.

2. These O.As. have been filed for direction to the respondents to absorb the applicants in regular service of Telecommunication Department on the post of Security Guard with pay and other emoluments as well as benefits of service.

3. The case of the applicants is that they ^{are} contract labour working as Security Guard with the respondents through a contractor. They are being paid emoluments as per agreement and contract between principal employer and contractor. The applicants claim is that they should be absorbed permanently in the service of principal employer on completion of 240 days in a year on line with other categories of casual labour which is consistent with the constitutional guarantee of equality. It is also stated that because the work on which the contract labour is engaged is of ^{per}sonal nature, the condition required for abolishing of contract labour is there and therefore contract labour should vanish and the applicants put under direct employ^e of principal employer.

4. We have heard Sri A.K. Dave for the applicants

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and Sri S.C. Chaturvedi and Sri S.C. Mishra for the respondents in these O.As.

5. The learned counsel for the applicants has produced orders of Ministry of Labour Government of India dated 31.7.2000 in respect of Sri Devi Prasad Pandey, dated 7.8.2000 in respect of Sri Dura Prasad Pandey, dated 31.7.2000 in respect of Sri Amar Nath Singh, dated 31.7.2000 in respect of Sri Adya Prasad Pandey, dated 31.7.2000 in respect of Sri Shyam Singh, dated 31.7.2000 in respect of Sri Ram Pal Singh, dated 7.8.2000 in respect of Sri Subhash Singh dated 7.8.2000. By these orders the Ministry of Labour has referred the Industrial Dispute to Central Government Industrial Tribunal cum Labour Court Kanpur with the following description of the dispute:-

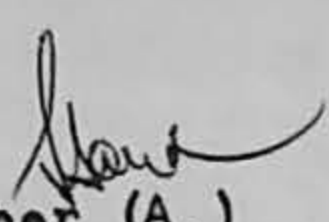
" Whether the action of the management of Telecom Department in terminating the services of Sri Devi Prasad Pandey w.e.f. 15.7.99 is justified? if not to what relief the workman is entitled?

We thus find that out of eight applicants in four O.As. the case of seven applicants in three O.As. have already been referred by the Ministry of Labour, Government of India to Central Industrial cum Labour Court. The cases are clearly of applicants who are no longer in employment of the respondents. It appears that they are pursuing remedy under Industrial Disputes Act 1947. Therefore, their O.As. are not maintainable before us at this juncture. The issue of relationship between the applicants and the respondents is likely to be

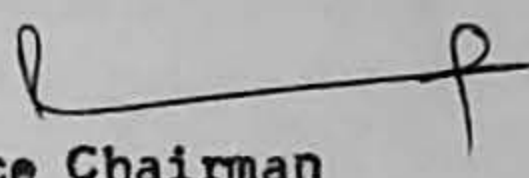
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settled in the cases before C.G.I.T. The applicants may thereafter file their O.As. along with orders of the C.G.I.T. if the relationship is found to be of one employer and employee in those cases.

6. The applications are disposed of as above.
No order as to costs.



Member (A.)



Vice Chairman

Nafees.