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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 33 OF 1986
~~Ex-Ax No~~

DATE OF DECISION 26-11-1986

GOVIND KANJI PARMAR & ORS. Petitioners.

P.M. THAKKAR Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent(s).

J.D. AJMERA Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal. No

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JUDGMENT

O.A.No. 33 OF 1986.

Date: 26-11-1986.

Per: Hon'ble Mr.P.M. Joshi, Judicial Member.

The petitioners, viz; (1) Shri Govind Kanji Parmar, (2) Shri Keshavji Foga Parmar, (3) Murji Kalyan Parmar, (4) Foga Virji Parmar, (5) Kheraj Patramal Bhadiya, (6) Muru Raya Bhakad and (7) Madha Gokar Kalzariya; working at Dwarka in the office of the Conservation Assistant, Archaeological Survey of India, seek regularisation in the post of Mistry. They further seek orders restraining the respondents from terminating their services as they are treating them as daily workers and deny the benefits available to the permanent employees in the service of the respondents. According to the petitioners they are in the services without any breaks since more than 5 to 15 years as shown in the Annexure 'A'. Whereas the stand taken by the respondents is that they are working as casual labourers in the cadre of Mason against the estimated repair to the western porch of Dwarka temple with effect from 15-7-1986. According to them, they are being paid as per the P.W.D. rates/local rates and they are liable to be disengaged in the following circumstances :

- (i) when the repair work is stopped for any reason,
- (ii) on completion of repair work,
- (iii) if their work is found unsatisfactory.

2. While referring to the nature of the work and the period during which they were employed as shown in the enclosures attached to the reply filed by the respondents, it is vehemently contended by Mr.J.D.Ajmera, the learned counsel for the respondents that no

industrial activity is undertaken in carrying repair works of the ancient monuments like Dwarka Temple, Deviki Temple and Pradyumanji Temple, etc. According to them, the provisions of the Industrial Disputes Act, are not applicable in the present case and hence the question of regularisation of the petitioners' service, does not arise. However, Mr. D.M. Thakkar, the learned counsel for the petitioners while relying on the case of Dhirendra Chamoli & Anr. Vs. State of U.P. (1986(1) S.C.C. p. 637) submits that even though the respondents are taking services from the petitioners for the last more than a decade their salary and conditions of services are not on par with the regular workers and they are denied benefits on the ground that they are casual labourers.

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3. The question under the circumstances is whether the petitioners are entitled to claim the relief of regularisation as contended ? Our answer, is in the negative. It is pertinent to note that the Director General of Archaeological Survey of India is running its office at Baroda, Dwarka and Junagadh by appointing Superintendent and Conservation Assistant. It seems that they are looking after the ancient monuments covered under the area. It is for the proper management of those monuments they undertake repairs and for doing so they are required to engage Coolies, Masons and Labourers. It is true, the petitioners being known to the department, they are engaged for such repair works, as and when undertaken. It is borne out from the particulars under details shown in the enclosures appended with the reply that they are not continuously engaged by the respondents during the relevant period. Some time they are hardly working for a period of two to four weeks in a year. Moreover many-a-times their services are not taken for a period of two

to three years. The case of Dhirendra (Supra) is therefore, not applicable in the present case.

4. The petitioners have not produced any materials to show that there are any existing sanctioned regular post available with the department of the respondents and that they are not filled in by taking the service from the petitioners. There can be no question of regularisation when there are no sanctioned post. It is evident from the record that the petitioners are engaged as and when the repair works are undertaken by the respondents for the proper maintainence of the monuments like Dwarka Temple and other temples, in the area under their jurisdiction. No permanent status therefore can be conferred upon the petitioner as claimed by them. Accordingly, the respondents can not be restrained from disengaging the petitioners, when either the repair work is stopped for any reason, or on completion thereof or their work is found unsatisfactory. Thus the petitioners have failed to make out the case of regularisation or for the grant of other relief as prayed for.

5. In this view of the matter the application fails and stands dismissed with no order as to costs.


(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
JUDICIAL MEMBER