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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
O.A.No.260/00992 of 2014
Cuttack this the 12th day of January, 2015

CORAM
HON'BLE SHRI A.K.PATNAIK, MEMBER(J)
HON'BLE SHRI R.C.MISRA, MEMBER(A)

1. Brahmananda Swain, aged about 42 years, S/o. Dhrub Swain
2. Akshay Kumar Swain, aged about 37 years, S/o. Ananda Swain
3. Grisma Ranjan Behera, aged about 28 years, S/o. Harihar Behera
4. Rupan Gochhayat, aged about 46 years, S/o. Amarswar Gochhayat
5. Sukanta Mallick, aged about 33 years, S/o. Panchu Mallick
6. Dilip Barik, aged about 24 years, S/o. Gagan Barik
7. Sukanta Kumar Bhoi, aged about 33 years, S/o. Deba Bhoi
8. Chhabi Kandi, aged about 33 years, S/o. Bhikari Kandi
9. Kalandi Swain, aged about 28 year, S/o. Narayan Swain
10. Narendra Kandi, aged about 35 years, S/o. Jagal Kandi
11. Manas Kumar Swain, aged about 29 years, S/o. Hatakishore Swain
12. Bijaya Kumar Mallick, aged about 29 years, S/o. K.C. Mallick
13. Bichitra Kandi, aged about 33 years, S/o. Prahallad Kandi
14. Chittaranjan Mallick, aged about 33 years, S/o. Chhaila Mallick
15. Abhaya Kumar Nayak, aged about 37 years, S/o. Bijaya Ku. Nayak
16. Krushna Ch. Swain, aged about 29 years, S/o. Hatakishore Swain
17. Lingaraj Behera, aged about 33 years, S/o. Kusha Behera
18. Amareswar Kandi, aged about 42 years, S/. Rama Kandi
20. Ranjan Kumar Mallick, aged about 32 years, S/o. Sanatan Mallick

All are working as Casual Labourers in Horticulture Division
No.IV, Archaeological Survey of India, At/PO-Konark Site (Sun
Temple Garden), District-Puri

...Applicants

By the Advocate(s)-Mr. A.K. Chaudhury

-VERSUS-



Union of India represented through

1. The Secretary, Ministry of Culture, government of India, Shastri Bhawan, New Delhi-110 001
2. Director General, Archaeological Survey of India, Janpath, New Delhi-110 011
3. Chief Horticulturist, Archaeological Survey of India, Eastern gate, Taj Mahal, Agra, Uttar Pradesh
4. Dy.Superintendednet, Horticulturist, Archaeological Survey of India, Division No.IV, Satya Nagar,Bhubaneswar, District-Khurda

...Respondents

By the Advocate(s)-Mr.G.Singh

ORDER

R.C.MISRA, MEMBER(A):

Applicants 20 in number have approached this Tribunal with a grievance that though they have been working continuously as Casual Workmen under the administrative control of Deputy Superintendent, Horticulturist (Res.No.4), the authorities in the Department are going to engage outsiders through a service providers^l by their order dated 2.9.2014. The applicants have assailed this order on the ground that this amounts to denial of employment to them and is an unfair Labour Practice under Section 33 of Industrial Disputes Act.

2. It has been submitted that the applicants as well as the Union complained to the Assistant Labour Commissioner(Central), on which the




A.L.C. called upon Respondent No.4 for ^{re}conciliation proceedings by observing that the appointments of workers through a contractor without the Registration of the Principal Employer is violative of the provisions of Contract Labour (Regulation & Abolition) Act, 1970 and the rules framed thereunder. The Respondent No.4 had in the meantime informed the President of the ASI Horticulture Workers' Union by a letter dated 2.9.2014 that the decision of the Government of India is to maintain the archaeological gardens through outsourcing agency due to shortage of adequate regular garden attendants. Such outsourcing is through a regular practice and nothing new has been introduced for the financial year 2014-15. He further informed that he was aware of the provisions of I.D.Act etc. and was not violating any law with regard to making such arrangement on maintenance of archaeological gardens under the Horticulture Division of the Archaeological Survey of India. It has been further submitted that the Assistant labour Commissioner wrote a letter dated 12.5.2014 to Respondent No.4 that he had failed to attend the reconciliation proceedings on 9.5.2014 and was further directed to attend the reconciliation proceedings on 23.5.2014. Another letter dated 21.10.2014 has been brought to our notice in which the Assistant

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Labour Commissioner(Central) informed the Respondent No.4 and the President of the Archaeological Survey of India Workers' Union that they should attend a joint discussion on 18.11.2014 in his office to discuss this dispute. However, the applicants, at this stage have approached the Tribunal with a prayer that the decision of Respondent No.4 in engaging the workers through outsourcing agency may be quashed. In this regard, they have challenged specifically Annexure-A/3 of this O.A. which is a letter dated 2.9.2014 addressed by Respondent No.4 in which the ^learlier decision of the Government of India to maintain archaeological gardens through outsourcing has been intimated to the President, ASI Horticulture Workers' Union.

3. We have heard Shri A.K.Chaudhury, learned counsel for the applicants and Shri G.Singh, learned ACGSC for the Respondents on the question of admission.

4. With regard to relief sought by the applicants, it appears that the decision to maintain the archaeological gardens through outsourcing is a policy decision of the Government of India with which prima facie, the Tribunal ^lcould not like to interfere. Secondly, it is clear from the facts of this case that on a complaint received from the applicants as well as the Union, the



Assistant Labour Commissioner(Central) issued a notice to Respondent No.4 calling upon ^{him} for a conciliation. The final result of the conciliation proceedings is not yet known. It has been alleged that the action taken by the Respondent No.4 in the matter of outsourcing amounts to unfair Labour Practice and also violates certain provisions of Contract Labour (R&A) Act. Therefore, it appears that the matter is still under consideration of the authorities of the Central Labour Organization. On the other hand, it is not a case where the applicants have come up before the Tribunal claiming any personal entitlements under the relevant service rules. The order that they have challenged only contains a policy decision of the Government of India regarding outsourcing. Applicants have not made out any case regarding infringement of any of their conditions of service. This being the position, in our considered view, the grievance as raised by the applicants in the present O.A. is not covered under Section 19 of the A.T.Act, 1985. As the policy decision regarding the outsourcing of maintenance of archaeological garden is now the subject matter of conciliation proceedings with the Assistant Labour Commissioner(Central), the Tribunal would not like to interfere in this matter. This apart, ^{since} the applicants have failed to establish before the Tribunal any




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cause of action as to redressal of their grievances, the O.A. is rejected without being admitted. No costs.

(R.C.MISRA) 
MEMBER(A)


(A.K.PATNAIK)
MEMBER(J)

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