

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

O.A. No.1157/96

Date of Decision: 6.12.96

JUDGEMENT

(Oral order per Hon'ble Shri B.S. Jai Parameshwar: Member (J))

BETWEEN

Radhe Shyam and 12 others

.. Applicant

AND

1. The Union of India, represented by  
The Secretary to the Government,  
Ministry of Defence, South Block,  
New Delhi

2. The Defence Research & Development  
Organization, Ministry of Defence,  
New Delhi-110001 represented by the  
Scientific Advisor to Defence Minister.

3. The Director, Defence Research &  
Development Laboratory,  
Kanchanbagh, Hyderabad-500058

.. Respondents

Counsel for the Applicant: Mr. N. Ram Mohan Rao

Counsel for the Respondents: Mr. K. Bhaskar Rao

CORAM:

HON'BLE SHRI H. RAJENDRA PRASAD: MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

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OA No.1157/96

Date of decision: 7.11.1996

JUDGEMENT

(Oral order per HON'BLE SHRI B.S. JAI PARAMESHWAR: MEMBER(JUDL.)

1. Heard Shri N. Ram Mohan Rao, learned Counsel for the applicants and Shri K. Bhaskar Rao, Learned Counsel for the respondents.

2. There are 13 applicants in this original application. They pray this tribunal:

(a) To declare the action of respondents in not absorbing the applicants to the post of Helper and filling up the posts of Helpers with candidates sponsored by the Employment Exchange without considering the claims of the applicants for absorption to the post of helper as illegal, arbitrary, unsustainable and violative of Articles 14 and 16 of the Constitution of India.

(b) To declare that the applicants are fully eligible and qualified for absorption as helpers and are entitled to be absorbed so:-

(c) To direct the respondents to absorb/regularise their services to the posts of helper without insisting that their names should be sponsored through the Employment Exchange; and

(d) For such other reliefs.

3. They also prayed for interim relief on those lines.

4. On 3.10.96 this tribunal after hearing the learned counsels passed the order which reads as follows:

"It is stated that the applicants are working as Shop Floor Helpers under the R-3. However the learned counsel for the respondents submit that no such designation exists in the Laboratory. It is further stated that a regular selection

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is made for appointment of Shop Floor Helpers replacing the applicants herein. The learned counsel for the respondents submit that they are not appointed as casual Shop Floor Helpers by the department and they are contract labourers. This point has to be examined in depth.

The learned counsel for the applicants submits that they are appointed on job contract and hence they cannot be considered as contract labourers for performing certain duties in the shop floor.

Under the circumstances the following interim order is passed:-

Any appointment made to the post of Shop Floor Helper through a process of selection thereby replacing the applicants herein is subject to the outcome of this OA. This has to be ~~mentioned~~ <sup>mentioned</sup> maintained in the appointment orders to be issued."

5. The Respondent-1 is the Union of India and the Respondent -2 is Defence Research & Development Organization and the respondent No.3 is the Director, Defence Research & Development Laboratory, Kanchan Bagh, Hyderabad. (hereinafter referred to as "the laboratory").

6. The case of the applicants in brief is to the following effect:-

(a) That they were appointed as casual labourers by the respondent during 1983-1991. That they have studied and passed 8th class or 10th class or the intermediate examination. That though they were paid wages on daily wage basis, the wages were being paid at the end of the month; that they were discharging the duties of a regular helper and their nature of duties were dependent on the place of their posting. That they have been discharging their duties to the best satisfaction of their supervisors and that they never gave any scope to complain against them, that they have been engaged on casual basis initially upto 1984, then there-after, their appointments were partially modified to that of contractual. That they were

engaged on Contractual basis and they were continued as casual workers without any break in service. That they were discharging the duties of regular helpers and some of them were employed in Electro Plating Section, Special Fabrication Group, Quality Control Group, Precision Machining Centres, Internal Fabrication, Tool Room, Production Engineering Group, Fitting Shop etc. in the laboratory. That they were instrumental to the upkeep of the laboratory. That they were handling important works like loading and unloading and that even some of the casual labourers handled the flight trial spotted at Pokhran, SHAR, Balasore, that they discharged their duties under able skilled force of the laboratory to enable them to carryout their precision, fabrication, that thus they assisted the skilled force of the laboratory to the best of their efficiency and hard work, that they have gained good experience and skill in handling the precision components of assorted sizes used in the laboratory that they orally represented the laboratory to regularise their services as regular helpers, that they are fully eligible, qualified for absorption in the laboratory, that they registered their names in the employment exchange, that they were within the age group of 35 years, that they possess the minimum educational qualification <sup>prescribed</sup> for the post of helpers- a pass in VIII class, that there are 20 clear vacancies of helpers in the laboratory and that the Respondent-2 called them for personal meeting on 29.7.91 and discussed the proposal of regularisation of their services and that on the same day they submitted their representation. That the laboratory has not passed any orders nor taken any decision on their representation that on the contrary the respondent-2 has requested the Employment Exchange to sponsor the names of the candidates to fill the post of helpers in the laboratory that the laboratory ignored their genuine claims for absorption, that they are



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becoming over-aged for any other recruitment that the respondents extracted work from them for a long period of years, that the respondents can not think of discharging them, that the respondents cannot ignore their claim for absorbtion/regularisation as helpers, that they held certain sanctioned posts as witnessed by the letters Dt.1.11.94, 27.7.95, 3.7.91 and 20.8.96 wherein the Project Director submitted to the Director of the Laboratory for financial sanction to accomplish a specified job. That from time to time the laboratory was sanctioning the work to the respective head of the Group, that the action of the respondents in not considering their claims for absorbtion is violative of Articles 14 and 16 of the Constitution of India.

(b) That the employment exchange has sponsored nearly 1200 candidates to the post of helpers that the interviews are likely to commence from 13.9.96. In case, the interviews are allowed to continue without considering their case grave injustice would be caused to them, that their case should be considered first for absorbtion, that they are young and energetic and they have rendered long years of service that the laboratory is a Central Government Organization that the laboratory must set an example to other employers in protecting the fundamental rights of the citizens of India. The laboratory must uphold the constitution of India. That they were employed by the laboratory through heads of groups and controlling officers.

7. The respondents have submitted their reply statement. In reply statement, they dispute that the applicants were continuous contract or daily wage labourers. They dispute that the applicants were not on the establishment rolls of the



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laboratory, that they do not even come under the jurisdiction of Honourable Tribunal. That the laboratory is one of the important organization engaged in research and development of defence equipments that certain jobs, like clearing of shrubbs, shifting of furniture from one place to another, for inspection, loading and unloading of materials, were being given on contract basis, that those jobs could be more conveniently be got done through contract labour within the limited time-frame; that this was because of the expansion of the laboratory, that these petty or contractual jobs were entrusted to the contractors; that on the basis of the quantum of work, turned out and after completion of the work satisfactorily that the applicants were not appointed as casual labourers in the laboratory. They were entrusted to complete the job work within the specified time, that the averments made in para 6(3) are not correct that the laboratory is not under any obligation to absorb them as regular helpers.

8. That neither on 29.7.91 nor on 29.7.96, the applicants met the respondents that the <sup>applicants</sup> ~~complainants~~ are not concerned with the action taken by the laboratory to fill the posts of helpers that since the contract labour system has not yet been abolished by the Government they have no claim to absorb in the laboratory, that the applicants never held any post in the office of the laboratory that the sanction given by the project director was only to incur an expenditure for carrying out a specific or particular job, that it did not confer any right upon the applicants to claim regularisation/absorption as a matter of right, that action of the laboratory in interviewing the candidates for filling the posts of helpers cannot be termed as violative of rules 14 and 16 of Constitution of India. That there is no truth in the averments made in para 6(5), that as per the rules laid down for recruitment for the post of helpers in the laboratory candidates have to be sponsored

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through the concerned Employment Exchange and the respondents have adhered to the same in accordance with the day to day instructions, that the applicants were engaged on contractual basis in the laboratory to do certain specified jobs and the wages were paid only after satisfactory completion of the ~~entusted~~ contracted jobs and that the application is liable to be dismissed.

After hearing the various contentions argued by the learned counsels, the following points arise for our determination.

(a) Whether the applicants prove that they have been working continuously in the laboratory without break in service from 1983 to 1991 as alleged,

(b) Whether ~~the~~ respondents prove that the applicants are only the job contract labourers employed particularly for performing specified jobs in various wings of the laboratory.

(c) Whether the applicants prove that they are entitled to be absorbed as "shop floor helpers" in the laboratory.

(d) Whether the applicants ~~are~~ are entitled to the relief prayed for?

(e) ~~To~~ what order.

OUR FINDINGS:-

- (a) No
- (b) Yes
- (c) No
- (d) No
- (e) As under

REASONS

Points (a) & (b): The applicants' claim that they worked in the laboratory from 1983-91 as contract labourers or job contractors or daily wage workers or by whatever name they be described. They allege that earlier they were working



in the laboratory on daily wage basis and subsequently their status of work was modified into contract workers. They have not placed any material on record to show that at any point of time they had worked as daily wage workers or contract labourers. They have not placed any letter or document to substantiate that their status of work in the laboratory was a contractual one. Further the ~~complainants~~ <sup>applicants</sup> averred that their wages were paid once in a month. They have not placed any material to infer that their wages were paid once in a month. The applicants remained silent after the benefits they enjoyed in the laboratory. They should have stated whether they were earning any kind of leave for the period they worked in the laboratory.

The applicants contend that they have passed 8th class, the minimum qualification required for a post of shop floor helper, S.S.C. and even intermediate. None of the applicants has produced the marks card obtained by them in any of the examinations. It is not stated as to who amongst the applicants passed S.S.C. or intermediate examination. They also have not produced anything to show that they had passed 8th standard examination.

The applicants stated that their names have been registered in the Employment Exchange. They have not produced any material on the record to show that their names were registered in the employment exchange either during their work in the laboratory or at the time of filing this application. Therefore, in our view the applicants have not produced any material in respect of various averments made in the original application.

The laboratory is a prohibited area i.e. no outsider can enter the premises of the laboratory without a gate-pass issued by an authorised <sup>Security</sup> officer of the laboratory. The laboratory has got various wings as mentioned in the application.





The wings of the laboratory are Electroplating Section, Special Fabrication Group, Directorate of Engineering, Quality Control Group, Precision Machining Centre, Internal Fabrication Group, Tool Room, Production Engineering Group and Fitting Shop etc. etc.

On going through the papers at Sl.No. 20 of the original application, it is disclosed that the Scientist 'E' of the Trishul Project, Head of Quality Control Group made an application for sanction of advance for job contract. It was in November, 1994. The job required to be carried out at Trushul Project was:

- (a) Loading and unloading inspection of jobs and fixtures,
- (b) Collection of inspection of jobs,
- (c) Distribution of finished inspection jobs and fixtures, job cards etc. from various work centres within DDE.

The estimated cost for carrying out the specified job was Rs.1485. The project director sanctioned the finance for carrying out the said job.

As per page 21 of the OA, Quality Control Group made submission for sanction of amount for job contract, in Trishul Project connected with hardware fabrication. The jobs to be carried out <sup>were</sup> ~~was~~ similar to the jobs specified above. The estimated cost for carrying the job was Rs.1080/-. This was submitted on 27.7.95. The project director sanctioned the said finance under the document, - page 22 of the original application. The applicant No.1 carried out the said job from 3.7.95 to 31.7.95 (29 days) and accepted a sum of Rs.1080/-. The scientist has furnished job completion report below the said receipt.

Under page No.23 Quality Control Group (ION) submitted for sanction of finance for Prithvi Project of the laboratory

*OR*

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for the month of August, 1996. The specified jobs to be carried out were:

- (a) Distribution of finished inspection jobs and fixtures, job cards etc. from various work counters within DDE.
- (b) Loading and unloading inspection jobs and fixtures
- (c) Collection of inspection of jobs

The proposed estimate for the said jobs was Rs.1300/- only.

The Project Director sanctioned the advance. The job was carried by the applicant No.1 from 1.8.96 to 31.8.96 (31 days) and accepted Rs.1300/-. The receipt issued by the applicant No.1 for Rs.1275/- is at page 25.

Under page 26, of the original application, the Quality Control Group made a submission for sanction of Rs.1,000/- for job contract that is for handling jobs and fixtures in Metrology and Inspection Division, Assembly Inspection Division and Non-destructive Testing Division and coordinating the work in these work centers. This was submitted in July, 91. The Project Director sanctioned the funds. The applicant No.1 carried out the said work from 10.6.91 to 5.7.91 (21 days) and based on receipt furnished accepted Rs.400/-. Likewise, the applicant No.6 also carried out the said job and accepted a sum of Rs.600/-. He had worked in the project from 7.6.91 to 5.7.91 (29 days).

The applicants have produced particulars of contract works and also a gate pass<sup>es</sup> issued to<sup>some of</sup> them to enter the laboratory. The gate pass clearly mentions to the effect that the pass has to be surrendered on termination of contract work. This can be noticed under the instructions printed on the reverse of the temporary pass. It appears the applicant No.1 submitted an

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application to Security Officer for renewal of temporary pass. <sup>Ball</sup>  
 On going through the gate passes of applicants it can be seen that  
 the applicant, No.1 and No.6 were engaged for certain job work  
 on contract basis for a period which does not even come to  
 60 days.

The learned counsel for the applicants relied upon the decision of the Hon'ble Supreme Court of India in the case of Gujarat Electricity Board Thermal Power Station Vs Hind Mazdoor Sabha and others, report<sup>ed</sup> in the <sup>1995</sup> AIR Supreme Court page 1893. The Hon'ble Supreme Court felt the need for abolition of contract labour system. "It is for the appropriate Government or the authority to take steps to abolish contract labour system on the principles communicated by the Honourable Supreme Court."

The learned counsel for the respondents submitted that the applicants were not the contract labourers, that they were entrusted <sup>with</sup> specified jobs, given a specified time, that on satisfactory completion of job entrusted to them they were paid wages, that they are not entitled to be regularised or absorbed. He submitted that the applicants were not on the temporary rolls of the laboratory at any point of time. He submitted that the applicants who were entrusted with certain job were paid wages only after the completion of the work entrusted. Therefore they are not entitled to be absorbed. He disputed that the applicants represented either on 29.1.71 or 29.7.96. He denied the laboratory making any exercise for regularising the services. He further consented that as per directions of the respondents No.2 the laboratory fixed the dates for interview for the candidates sponsored by the Employment Exchange for filling the posts of Shop Floor Helpers. He submitted

that as per the instructions of the respondent No.2 the Employment Exchange was requested to sponsor the names of deserving candidates. He submitted the laboratory wants to replace the contract workers by employing shop floor helpers. Thus the learned counsel justified the action of <sup>the</sup> respondents in conducting the interview for the candidates sponsored by the Employment Exchange.

After going through the material placed on record by the parties, we are convinced that the applicants were not employed on regular basis that they were not on the temporary rolls of the laboratory that they are not entitled to be regularised or absorbed in the laboratory. It is submitted that the duties performed by some of the applicants were similar in nature to the duties of the shop floor helpers.

Therefore, on humanitarian grounds we feel a direction ~~may~~ be given to the laboratory to consider the claims of those applicants who have worked as job contractors for more than 60 days, though intermittently, to call for interview and consider their suitability to the posts of Shop Floor Helpers- The applicants have no legal right to claim for absorption or regularisation in the laboratory. We make it clear that in the event of selection of any of the applicants to the post of Shop Floor Helpers then it will be a case of fresh appointment and that selected applicants cannot claim any seniority or higher wages on the ground of their having worked as job workers in the laboratory prior to the appointment.

We further direct that the respondent No.3 must comply with the above directions within 3 months from the date of receipt of this order.


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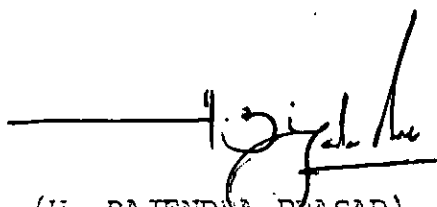
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OA No.1157/96

With these observations we dismiss the original  
application.

No order as to costs.

  
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMN.)

06 Dec 96.

Dated 6<sup>th</sup> December  
NOVEMBER, 1996

*Amli 1006*  
DY. Reg. *Shan (3)*

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Copy to:-

1. The Secretary to the Government, Ministry of Defence, Union of India, South Block, New Delhi.
2. The Scientific Advisor to Defence Ministry, Defence Research & Development Organisation, Ministry of Defence, New Delhi.
3. The Director, Defence Research & Development Laboratory, Kanchanbagh, Hyd.
4. One copy to Sri. N.Ram Mohan Rao, advocate, CAT, Hyd.
5. One copy to Sri. K.Bhaskar Rao, ~~addl.~~ Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.
8. One copy to Mr. B.S. Jee. permeshev, m(3) CAT, Hyd

Rsm/-

20/12/96 (87)

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APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI H. R. Jeeha Prasad  
R. A. / C. P. / M. A. No. M(A)

AND  
THE HON'BLE SHRI B. S. Jai Prakash  
R. A. / C. P. / M. A. No. M(J)

DATED: 6/12/96

ORDER/JUDGEMENT

R. A. / C. P. / M. A. No.

G.A. NO.

in

11 57/96

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal श्रेयण/DESPATCH 18 DEC 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH
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