CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI

T.A. No.119 of 2013

Orders reserved on 15.11.2018

Orders pronounced on : 06.12.2018

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Shri S.N. Terdal, Member (J)

1. Yeshvir Singh
S/o Shri Pritam Singh
Aged about 38 years
R/o H-129-D, Mohan Garden Uttam Nagar,
New Delhi-110059.

2. Charanpal Singh
S/o Shri Vikram Singh
Aged about 42 years
R/o E-10/660, Uttaranchal Colony
Near Water Pipe Line Loni,
Ghaziabad (U.P.)

3. Shish Ram Singh
S/o Shri Kalwa Singh
Aged about 42 years
R/o A-11/206, Rajveer Colony
Gharouli Extn., Delhi-110096.

4. Sushil Kumar
S/o Shri Vikram Singh
Aged about 36 years
R/o A-45, Friends Enclave,
Rajendra Park, Nagloi, Delhi-110041.

5. Onkar Singh
S/o Shri Biragi Singh
Aged about 50 years
R/o D-310, New Kondli
Delhi-110047.

....Applicants

(By Advocate Shri Jasbir Singh Malik)

Versus

1. Union of India
Through its Secretary
Ministry of Urban Affairs and Employment,
Nirman Bhawan, New Delhi-110 011.

2. Union of India
Through its Secretary
Ministry of Labour
Shram Shakti Bhawan,
Rafi Marg, New Delhi-110 001.

3. Director General [Works]
Central Public Works Department
Nirman Bhawan,
New Delhi-110001.

4. Executive Engineer
CPWD ED-X Andrews Ganj, New Delhi-110049.

5. Executive Engineer
CPWD A.C. D-2
Vidyut Bhawan,
Shankar Market
New Delhi-110001.

....Respondents

(By Advocates Shri Rattan Lal)

O R D E R

Hon'ble Ms. Nita Chowdhury, Member (A)

In this TA, which was transferred by the Hon'ble Delhi High Court vide Order dated 23.10.2013 passed in W.P. (C) No.1978/2008, the applicants are seeking the following reliefs:-

"(a) Issue a writ of mandamus directing the Respondents to give effect to the Ministry of Labour Notification No.SO 813 (E) dated 31.07.2002 for the purpose of absorption of the services of the Petitioners with all consequential benefits inclusive of absorption/regularization from the date of the Notification.

(b) Issue a writ of mandamus directing the Respondents to grant the same pay-scale to the Petitioners, which is being granted to the counterparts employees in the CPWD; and

(c) Pass such other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. This case was earlier heard by this Tribunal and this Tribunal vide Order dated 19.11.2016 dismissed this TA with the following observations:-

> "7. The respondents vide Annexure P-3 Gazette notification dated 31.07.2002 have prohibited engagement of contract labourers in certain disciplines, including the discipline of wireman to which these applicants belong. The judgment of the Hon'ble High Court of Delhi makes it clear that in the event it is decided to abolish the contract labour in particular job/work/process in any of the offices/establishments of CPWD, then such contract workers would be entitled to be absorbed with CPWD. In the instant case, by virtue of Annexure P-3 notification, the engagement of contract labour in 15 different categories, including the category of wireman to which these applicants belong, has been prohibited. The applicants, therefore, are seeking absorption in terms of the judgment of the Hon'ble High Court of Delhi.
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> 8. The fundamental issue, which draws our attention, is that the applicants are seeking absorption in CPWD in terms of the judgment of the Hon'ble High Court of Delhi. If their prayer for absorption is not being considered by the respondents, they are required to approach the Hon'ble High Court of Delhi only in contempt or otherwise with a prayer to get the said judgment implemented. This Tribunal can only enforce its own orders/judgments and not of other Courts.
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> 9. In this view of the matter, the TA is dismissed with a liberty to the applicants to approach appropriate legal forum for agitating their rights, if so advised."

3. The Applicants being aggrieved by the aforesaid Order of this Tribunal approached the Hon'ble Delhi High Court by filing the Writ Petition (Civil) No.1570/2017 and the Hon'ble High Court vide Order dated 21.11.2017 allowed the said Writ Petition. The relevant observations in the said Order of the Hon'ble High Court are reproduced below:-

> "13. We find it strange that the Tribunal has dismissed the T.A. even after noticing the fact that vide Notification dated 31.07.2002, the respondents had prohibited engagement of Contract Labours in certain disciplines including the category of 'wireman', to which the petitioner belongs. The Tribunal also overlooked the fact that the judgment dated 26.05.2000 of this Court had made it very clear that in such an event, a decision was taken to abolish the Contract Labour in the particular job/work/process and in that circumstance, those contract workers would be entitled to be absorbed in the CPWD. In our view, merely because the right of the petitioner to seek absorption in accordance with the terms of the Notification dated 31.07.2002 is founded on an earlier order passed by this Court, would not be a ground to hold that the petitioner was seeking enforcement of the orders passed by the High Court. Having ignored the specific prayer made by the petitioner whereby he was seeking enforcement of the Notification dated 31.07.2002, the Tribunal has, erroneously dismissed the T.A. as not being maintainable before it.
>
> 14. Even otherwise, the Tribunal has overlooked the fact that the judgment of the High Court was delivered on 26.05.2000 and while allowing the writ petition, liberty was granted to the respondents to take a considered decision regarding abolishment of contract labourers in different jobs/processes in the offices of CPWD and take consequent action accordingly. Thereafter, the respondents had admittedly issued a Notification dated 31.07.2002 and it is this Notification in respect whereof, the petitioner was seeking enforcement. At no point was the petitioner seeking enforcement of the judgment dated 26.05.2000 passed by the High Court, which in fact stood substantially implemented upon issuance of the aforesaid Notification.
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> 15. In view of the above, the order of the Tribunal is wholly unsustainable and is accordingly set aside. The T.A. is restored to its original position and the matter is remanded back to the Tribunal for adjudication on merits."

4. In the above circumstances, the case has been remitted back to this Tribunal for adjudication on the issues involved in this TA.

5.1. The brief facts of the case, as emerge from the records, are that the applicants were initially deployed with Central Public Works Department by the contractor under contract as applicant no.1 as helper/wireman on 18.7.1988, applicant no.2, Electrician in July 1987, applicant no.3 as Electrician on 27.12.1989, applicant no.4 as A.C. Operator since 1986 and applicant no.5 as A.C. Operator on 17.2.1987 through different contractors. After having worked for almost 10 years on contract basis in the CPWD, the applicants, along with other similarly placed persons approached the Hon'ble Delhi High Court by way of W.P.(C) no. 4265/1998 titled, "***CPWD Karamchari Union (Regd.) and Ors. v. Union of India and Ors***", seeking regular appointment/direct absorption by the CPWD as their Principal Employer and alleging that the contract system under which they were working, was actually a camouflage and their contractor neither had the requisite license, nor was he registered under the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "the Act"). It was also contended therein that no efforts were made by the respondents to issue a notification under Section 10 of the Act for abolishing the contract labour system prevalent in the CPWD in respect of the nature of work being undertaken by the contract workers.

5.1 The applicants and other similarly placed persons were granted ad interim protection in the said petition regarding their services. During the pendency of the aforesaid petition,

a Resolution dated 30.03.2000 was issued by the Government of India under Section 5 of the Act, whereby the Central Advisory Contract Labour Board constituted a Committee to examine the issue of abolition of contract labour deployed in different offices/establishments of the CPWD. In the wake of the constitution of the Committee, the aforesaid writ petition alongwith other connected writ petition including W.P. (C) no. 4265/1998 were disposed of by the Hon'ble Delhi High Court vide Order dated 26.05.2000, with the following directions:

> "1. The services of these contract workers shall not be substituted with other contract workers i.e. if the respondent require to employ contract workers in the jobs assigned to these contract workers, then they will not replace the present contract workers with fresh contract workers.
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> 2. In case of contract with a particular contractor who has engaged these petitioners/contract workers, comes to an end the said contract may be renewed and if that is not possible and the contract is given to some other contractor endeavour should be made to continue these contract workers with the new contractor. It would be without prejudice to the respective stand of the parties before the "appropriate Government" and their continuation would depend upon the decision taken by the Government to abolish or not to abolish the contract labour system.
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> 3. These directions shall not apply in those cases where the particular contract of maintenance etc., given by other establishment to the CPWD earlier has ceased to operate with the result that CPWD is not having the work/contract any longer. In those cases it would be open to the CPWD to disengage such contract workers as not required any longer in the absence of work/job/particular activity with the CPWD.
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> **4. If the decision is taken to abolish the contract labour in particular job/work/process in any of the offices/establishments of CPWD (as per the terms of reference contained in Resolution dated 30th March, 2000), as per the judgment of the Supreme**

Court in Air India Statutory Corporation (supra) such contract workers would be entitled to be absorbed with CPWD and would be entitled to claim the benefits in terms of the aforesaid judgment. In case the decision of the "appropriate Govt." is not to abolish contract labour system in any of the works/jobs/process in any offices/establishments of CPWD the effect of that would be that contract labour system is permissible and in that eventuality CPWD shall have the right to deal with these contract workers in any manner it deems fit.

5. Such contract labours who are still working shall be paid their wages regularly as per the provisions of Section 21 of the Act and in those cases where the contractor fails to make payment of wages, it shall be the responsibility of the CPWD as principle employer to make the payment of wages.

6. The exercise undertaken by the "appropriate Govt." u/s. 10 of the Act, starting with the formation of a Committee by Resolution dated 30th March, 2000 should be completed as expeditiously as possible and in any case within a period of six months from today. There shall be no order as to costs."

(Emphasis supplied)

5.2 The judgment dated 26.05.2000 passed by the Hon'ble Delhi High Court in the connected petitions was challenged by the applicants/workmen by filing an intra court appeal (LPA No. 388/2000) which was dismissed vide order dated 22.08.2009 and the same was not carried in appeal to the Supreme Court. Thus, the judgment of the said judgment of the Hon'ble Single Judge of the Hon'ble Delhi High Court dated 26.05.2000 issuing directions to the respondents to examine the issue of abolition of contract labour in various works/jobs in the CPWD attained finality.

5.3 While the said LPA was pending before this Court, the Central Advisory Contract Labour Board recommended prohibition of contract labour in 20 categories of jobs and the Government accepted the said recommendations in respect of 15 categories out of 20 categories and accordingly, the Ministry of Labour i.e. respondent no.2 issued a Notification dated 31.07.2002. Consequently the Government of India through the Director General (Works), CPWD circulated this Notification regarding prohibition of Contract Labour in specific categories of work of offices/establishments of the CPWD for taking further appropriate action in the matter.

5.4 Since the categories of 'wireman', 'Electrician' and A.C. Operator against which the applicants were working, were covered under this Notification, considering themselves to be eligible for being absorbed by the CPWD, some of the applicants served a legal notice dated 02.02.2008 upon the Director General (Works), CPWD but received no reply thereto. In these circumstances, the applicants approached the Hon'ble Delhi High Court by way of W.P. (C) No.1978/2008, which was transferred to this Tribunal by the Hon'ble High Court and numbered as TA 119/2013, seeking the reliefs as quoted above.

6. The grievance of the applicants in this case, according to them, is against non-giving effect to the Ministry of Labour Notification No.SO 813 (E) dated 31.07.2002 for the purpose of absorption of the services of the applicants with all

consequential benefits inclusive of absorption/regularization from the date of the Notification. The said SO dated 31.7.2002 reads as under:-

> "S.O. 813 (E) – In exercise of the powers conferred by Sub-Section (1) of Section 10 of the Contract Labour (Regulation and Abolition) At, 1970 (37 of 1970), the Central government, in consultation with the Central Advisory Contract Labour Board and having regard to the conditions of work and benefits provided for the contract labour and other relevant factors specified in Sub-Section (2) of Section 10 of the said Act, hereby prohibits employment of contract labour in the process, operation or work specified in the Schedule below, in the offices/establishment of Central Public Works Department, Ministry of Urban Development and Employment, New Delhi with effect from the date of publication of this Notification in the Official Gazette, namely:-
>
> **SCHEDULE**
>
> 1. Air Conditioner Mechanic
> **2. Air Conditioner Operator**
> 3. Air Conditioner Khalasi/Helper
> **4. Electrician,**
> **5. Wireman,**
> 6. Khalasi (Electrical)
> 7. Carpenter
> 8. Mason
> 9. Fitter
> 10. Plumber
> 11. Helper/Beldar
> 12. Mechanic
> 13. Sewerman
> 14. Sweeper
> 15. Foreman
>
> (emphasis supplied)

The applicants in this case belong to category nos.2, 4 and 5 as mentioned above.

Further SO 814 (E) of dated 31st July 2002 issued by the Govt. of India, reads as under:-

> "S.O. 814 (E). – In exercise of the powers conferred by Section 31 of the Contract Labour (Regulation and

> Abolition) Act, 1970 (37 of 1970), the Central Government after consultation with the Central Advisory Contract Labour Board, hereby exempts M/s Karanpura Development Company Limited, Sirka, District Hararibagh (Bihar) from the applicability of the Notification of the Government of India in the Ministry of Labour No. S.O. 707 dated the 17th March, 1993 for a period of five years with effect from 22nd June, 2001 subject to the condition that the contract workers shall be paid wages at par with the departmental workers."

7. Applicants contended that the issue raised in this OA is pending before the Hon'ble Delhi High Court in Writ Petition (Civil) Nos.18013-27 of 2004 (***Vijay Kumar & others vs. Union of India & others***, etc. etc.).

7.1 Applicants further contended that aforesaid Notification NO.SO 813 (E) dated 31.7.2002 in the Gazette of India was published in compliance of the aforesaid Order of the Hon'ble Delhi High Court dated 26.5.2000 and the applicants' categories come within the 15 specified categories and as such the respondents have no option except to regularize the services of the applicants as the Hon'ble Delhi High Court in the said Order dated 26.5.2000 specifically observed that :

> 'If the decision is taken to abolish the contract labour in particular job/work/process in any of the offices/establishments of CPWD (as per the terms of reference contained in Resolution dated 30th March, 2000), as per the judgment of the Supreme Court in Air India Statutory Corporation (supra) such contract workers would be entitled to be absorbed with CPWD and would be entitled to claim the benefits in terms of the aforesaid judgment."

7.2 Applicants by placing reliance on the aforesaid observation of the Hon'ble Delhi High Court specifically

contended that the field units/actual executing authorities are not adhering either the directives of the Ministry concerned or the office of the Directorate General (Works) by issuing formal letters of absorption of the services of the applicant in terms of the aforesaid observation of the Hon'ble Delhi High Court.

7.3 Applicants also contended that the respondents are taking undue advantage of the plight of the applicants – workmen by not granting the necessary relief for which they have already been held entitled to. In other words, the human beings like the petitioners are being exploited to the full extent, that too, by the State.

8. Pursuant to notice issued by the respondents, respondent no.4 filed reply in which it is stated that applicants are not in employment or deployment by CPWD since 1987 or from any other date. Hence, the question of applicant nos.1 to 5 working as helper/workmen or electrician or A.C. Operator with C.P.W.D. does not and cannot arise. The answering respondent has vehemently denied that the applicants were working with C.P.W.D. for last two decades. The applicants are employees of the contractor who is working on the site and it is the contractor who is making payment of these people. The CPWD has neither ever employed them nor made any payment to them.

8.1 The answering respondent vehemently denied that by virtue of notification all the five applicants have become entitled to be absorbed with the C.P.W.D. but the fact is that the CPWD has never engaged the applicants for any of the work nor the CPWD has ever made any payment to the applicants but the fact is that CPWD has awarded the work to the contractor and contractor in turn engages the labourers for performance of work at site and it is the contractor who is making payment to these persons on the basis for the work performed by them. Therefore, the case of applicants does not fall within the purview of Section 9 of Industrial Dispute Act.

8.2 The answering respondent further denied that the applicants are deemed to have been regularized or the applicants are entitled to the same scale of pay as being granted to their counter parts.

9. The applicants have filed their rejoinder affidavit reiterating the contents of the TA and denying the contents of the counter affidavit.

10. Heard learned counsel for the parties and perused the material placed on record.

11. The main bone of contention of learned counsel for the applicants in this case is that in terms of para 4 of the judgment of the Hon'ble Delhi High Court in CWP No.2741/1998 decided on 26.5.2000 and that the

respondents vide Gazette Notification dated 31.7.2002 have prohibited engagement of contract labourers in certain disciplines, including the disciplines of the applicants to which these applicants belong, which makes clear that in the event it is decided to abolish the contract labour in particular job/work/process in any of the offices/establishments of CPWD, then such contract workers would be entitled to be absorbed with CPWD as in the instant case by virtue of Notification dated 31.7.2002, the engagement of contract labour in 15 different categories, including the categories of the applicants, has been prohibited. As such the applicants are entitled for absorption.

12. The contention of the answering respondent is that the applicants were never engaged by the CPWD rather they were the employees of the contractor and the payments of the wages were also made to these applicants by the contractor and not by the CPWD.

13. This matter was heard at length on 15.11.2018 and the respondent – CPWD was directed to file copies of agreement with the contractor with regard to the actions to be undertaken and payments to be made by him within ten days.

14. In pursuance of the aforesaid direction, the respondent - CPWD filed additional affidavit annexed a copy of contract, the contractor has given the undertaking that the respondent

will not regularize/absorb in its employee/labour with the respondent so it clearly shows that the breach of terms and conditions of the contract. In the said affidavit, the answering respondent by placing reliance on the judgment of the Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka and others vs. Umadevi & Others***, decided on 10.4.2016, contended that there is no fundamental right in those who have been employed on daily wages or temporarily or on contract basis, to claim that they have a right to be absorbed in service.

15. The issue involved in the present petition is no longer res integra as the Supreme Court, in a catena of decisions has made clear that the employees appointed on contract basis have no right to continue in service or reinstatement after period of contract is over. Admittedly, the applicants were appointed on contract basis and not in accordance with the constitutional scheme of employment. The appointment of the applicants was purely on contract basis and they were/are working in the respondent's organization through the contractor only and their wages were also paid by the concerned contractor and not by the respondent's organization. It is trite that a temporary, ad hoc employee/daily wager or contract appointee cannot claim regularization, continuance or reinstatement in service on the basis of appointment, which was temporary and not in

accordance with law and the same was de hors the constitutional scheme of employment as held by the Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka and Others vs. Umadevi and Others***, (2006) 4 SCC 1, ***Indian Drugs & Pharmaceuticals Ltd. v. Workmen, Indian Drugs & Pharmaceuticals Ltd.,*** [2007] 1 SCC 408***, Official Liquidator v. Dayanand and others,*** [(2008) 10 SCC 1], and ***State of Punjab and Others v. Surjit Singh and Others,*** (2009) 9 SCC 514.

16. Further with regard to regularisation of the employees working on temporary/contract basis, the Supreme Court in the case of ***Secretary, State of Karnataka and Ors. v. Uma Devi and Ors***., 2006 (4) SCC 1, in which the Apex Court held as under:

> "Adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of

> appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

It was further held as under:

> "While directing that appointments, temporary or casual, be regularized or made permanent, courts are swayed by the fact that the concerned person has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the

employment with eyes open. It may be true that he is not in a position to bargain - not at arms length - since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to avoid a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionally and equality of opportunity enshrined in Article 14 of the Constitution of India."

17. It is further relevant to refer the decision of the Hon'ble Supreme Court in ***Ashok Kumar Sonkar v. Union of India***, (2007) 4 SCC 54, observed as under:

> "34. It is not a case where appointment was irregular. If an appointment is irregular, the same can be regularised. The Court may not take serious note of an irregularity within the meaning of the provisions of the Act. But if an appointment is illegal, it is non est in the eye of law, which renders the appointment to be a nullity. "

18. ***In Maruti Udyog Ltd. v. Ram Lal & Others***. [(2005) 2 SCC 638], a Division Bench of the Apex Court, observed :

> "44. While construing a statute, sympathy has no role to play. This Court cannot interpret the provisions of the said Act ignoring the binding decisions of the Constitution Bench of this Court only by way of sympathy to the workmen concerned.

19. Keeping in view the aforesaid observations of the Hon'ble Supreme Court and also having regard to the judgment of the Hon'ble Delhi High Court, as much reliance has been placed by the applicants on the Order dated 26.5.2000 in W.P. (C) no. 4265/1998 and other connected cases decided by the Hon'ble Delhi High Court and SO dated 31.7.2000, as also the fact that while transferring this case before this Tribunal, the Hon'ble Delhi High Court also noted the judgment of the Hon'ble Supreme Court in the case of ***Uma Devi*** (supra), this Court has no option except to observe that since the applicants were deployed to work in the

respondent – organization through the contractor on contract basis and the contract through which the applicants were continued in deployment provides in Clause 2 that 'The contractor has to employ the existing workman those have been granted interim stay order from Hon'ble High Court.' and Clause 21 further provides that "Department will not entertain any Liability/responsibilities at any stage for staff deployed by the firm/contractor for all practical purpose for their regularization/absorption in the department.

20. So far as the main contention of the applicants that since the categories under which they were working have been abolished vide Notification SO dated 31.7.2002 and the Hon'ble High Court in the said Order dated 26.5.2000 already observed that "If the decision is taken to abolish the contract labour in particular job/work/process in any of the offices/establishments of CPWD (as per the terms of reference contained in Resolution dated 30th March, 2000), as per the judgment of the Supreme Court in Air India Statutory Corporation (supra) such contract workers would be entitled to be absorbed with CPWD and would be entitled to claim the benefits in terms of the aforesaid judgment' is concerned, it is relevant to note the further observation of the Hon'ble Delhi High Court in the said Order which reads as under:-

> "In case the decision of the "appropriate Govt." is not to abolish contract labour system in any of the works/jobs/process in any offices/establishments of CPWD the effect of that would be that contract labour

> system is permissible and in that eventuality CPWD shall have the right to deal with these contract workers in any manner it deems fit."

21. From the additional affidavit, it is clear that applicants' continuation in deployment in the respondent organization through the contractor is under the contract and some of the clauses relevant in this case have already been quoted above.

22. In view of the above facts and circumstances of this case and for the reasons stated above, this Court is unable to accede to the prayers of the applicants, especially having regard to the judgment of the Hon'ble Supreme Court in the case of ***State of Karnataka and others vs. Uma Devi*** (supra). Accordingly the present TA is dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/ravi/