

(2003) 01 AP CK 0063
In the Andhra Pradesh High Court
Case No : Writ Petition No. 9639 of 1997

P. Arumugam and Others

APPELLANT

Vs

Tirumala Tirupathi Devasthanams

RESPONDENT

Date of Decision : 22-01-2003

Acts Referred:

Constitution of India, 1950 — Article 12, 39

Citation : (2003) 2 ALT 454

Hon'ble Judges : E. Dharma Rao, J

Bench : Single Bench

Advocate : A. Bhaskarachari, for the Appellant; M. Adinarayana Raju and G. Venugopala Rao, for the Respondent

Final Decision : Allowed

Judgement

E. Dharma Rao, J.—This writ petition is filed by as many as 19 petitioners seeking a mandamus directing the respondent to regularize their services in the post of Human Hair Sorter Mazdoors and provide all consequential benefits.

2. The petitioners are working in the respondent-Devasthanam on daily wages of Rs. 20/- from 1992 and are discharging their duties on par with the regular Class-IV employees. The duty of the petitioners is to collect the human hair offered to the god by the devotees from the Kalyana Katta complex and also from various cottages and guesthouses at Tirumala and store the same in bags at the godown. According to the petitioners, they discharge the above duties from 8.00 A.M. to 5.00 P.M. every day without any holiday. It is their case that there are 18 regular employees to discharge the above duties apart from the petitioners and on account of increased quantity of human hair, the services of human hair sorters are necessary to the respondent-Devasthanam. The grievance of the petitioners is that they were engaged on daily wages in the year 1992 with short breaks and from July 1994 though they were continuously engaged and are discharging the duties on par with hair sorter and mazdoors, their services are not being regularized in the posts they are holding. The petitioners, therefore,

seek to regularize their services keeping in view that the Devasthanam requires more hair sorters on account of increased quantity of human hair, the low wages being paid to them and the services they are rendering. They also made several representations to the respondent-Devasthanam to consider their cases for regular employment in vain and hence they filed the present writ petition.

3. In support of the case the petitioners that it cannot be said that there is no work in view of the fact that the petitioners are engaged for all these years, counsel for the petitioners relied upon a judgment of the Supreme Court in SECRETARY, HARYANA STATE ELECTRICITY BOARD v. SURESH 1999[3] SUP 277. In the above case where the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 are involved in connection with employment of Karamcharis who claimed regularization, the Supreme Court held as under.

4. There is, however, a total unanimity of judicial pronouncements to the effect that in the event, the contract labour is employed in an establishment for seasonal workings, question of abolition would not arise but in the event of the same being of perennial in nature, that is to say, in the event of the engagement of labour force through intermediary which is otherwise in the ordinary course of events and involves continuity in the work, the legislature is candid enough to record its abolition since, involvement of contractor may have its social evil of labour exploitation and thus the contractor ought to go out of scene bringing together the principal employer and the contract labourers rendering the employment as direct, and resultantly a direct employee.

5. The Contract Labour Regulation Act being a beneficial piece of legislation as engrafted in the statute book ought to receive the widest possible interpretation in regard to the words used and unless works are taken to their maximum amplitude, it would be a violent injustice to the framers of the law. As a matter of fact law is well settled by this court and we need not dilate much by reason, therefore to the effect that the law courts exist for the society and in the event of there being a question posed in the matter of interpretation of a beneficial piece of legislation, question of interpreting the same with a narrow pedantic approach would not be justified. On the contrary, the widest possible meaning and amplitude ought to be offered to the expressions used as otherwise the entire legislation would loose its efficacy and contract labour would be left on the mercy of the intermediary. As noticed above Draconian concept of law is no longer available for the purpose of interpreting a social and beneficial piece of legislation specially on the wake of the new millennium. The democratic polity ought to survive with full vigour: socialist status as enshrined in the Constitution ought to be given in full play and it is in this perspective the question arises - is it permissible in the new millennium to decry the cry of the labour force desirous of absorption after working for more than 240 days in an establishment and having their workings supervised and administered by an agency within the meaning of Article 12 of the Constitution - the answer cannot possibly be in the affirmative - the law courts exist for the society and in the event law courts feel the

requirement in accordance with principles of justice, equity and good conscience, the law courts ought rise up to the occasion to meet and redress the expectation of the people. The expression "regulation" cannot possibly be read as contra public interest but in the interest of public.

6. Thus observing, the Supreme Court held that once the Board was not a principal employer and the so called contractor was not a licensed contractor under the act, the inevitable conclusion that has to be reached was to the effect that the so called contract system was a mere camouflage, smoke and a screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the Board and the employees could be clearly visualized. The Supreme Court accordingly upheld the order of the Labour Court but without back wages.

7. Denying the allegations made by the petitioners, a counter affidavit has been filed by the respondent-Devasthanam stating that as the collection of human hair increased, a tender notice was published for supply of labourers and lowest tender rate quoted by the first petitioner as a Contractor was approved and an agreement was also entered into. It is also stated that due to exigencies of work even after the expiry of the contract period the same contractor was again entrusted with the work of supplying labourers from time to time at regular intervals without calling for fresh tenders. It is further stated that the petitioners cannot compare the duties they perform with the duties and responsibilities of Class-IV employees of respondent-Devasthanam, that the petitioners worked under the contract system for certain periods only and that the present strength of hair sorters is sufficient during the slack season and that the respondent-Devasthanam is continuing the labourers that are being supplied by the first petitioner for the purpose of abiding the tender conditions. Further, according to the respondents, same persons are not working continuously, there is no employer and employee relationship between the parties, there are no vacancies sanctioned by the authorities and hence providing regular employment to the petitioners herein is not tenable. In support of the above averments, the learned standing counsel relied upon the judgment of the Supreme Court in *P. RAVINDRAN v. UNION TERRITORY OF PONDICHERRY* [1977] 1 SCC 350 for the proposition that regularization of the services of the ad hoc appointees, who had come to the service through back-door entry, bypassing the process of recruitment through open competition is not permissible. The learned counsel also relied on a judgment of the learned single Judge of this Court in *B. Satyanarayana and others Vs. Tirumala Tirupathi Devasthanam and others*, wherein it was held that no mandamus is permissible to regularize the services of the persons appointed on daily wage basis unless they satisfy that they were appointed against the existing vacancies and that selection procedure was followed in appointing them.

8. Counsel for the respondent alternatively submits that at best the case of the petitioners could be considered as and when vacancies arise along with other

eligible candidates in view of the judgment of a Division Bench of this Court in W.P. No. 13946 of 1993 dt.11.11.1999. In the said writ petition, where similar set of facts arose, the Division Bench while rejecting the pleas advanced on behalf of the petitioners made an observation to consider the case of the petitioners on humanitarian grounds giving weightage to the service already rendered by them, as and when vacancies arise and if the petitioners seek fresh appointment.

9. The judgments relied upon by the counsel for the respondent are not applicable to the facts and circumstances of the present case. In the case on hand, though the contractor initially supplied the petitioners for a period of one year, subsequently the contract was continued and the petitioners were engaged, who worked under the supervision and control of the Devasthanam. In the facts and circumstances of the case I am of the view that engagement of petitioners by paying a petty amount of Rs. 20/- for such a long period is contrary to the provisions enshrined in Article 39 of the Constitution. Further, when the petitioners are engaged for such a long period, it cannot be said that there is no work and they were engaged to attend seasonally. Further more, the principles laid down in Haryana State Electricity Board's case fully support the case on hand. As such, applying the said principles, I hold that the respondent-Devasthanam is the principal employer, who is having supervision and control over the work of the petitioners and therefore the petitioners are entitled for regularization of their services in the posts they are holding.

10. The writ petition is accordingly allowed. No costs.