
(2002) 11 AP CK 0015
In the Andhra Pradesh High Court
Case No : WA No. 221 of 1998

Swatantra Private Security Sibbandi Sangham	APPELLANT
Vs	
Regional Manager, Globe Detective Agency (P) Limited	RESPONDENT

Date of Decision : 13-11-2002

Acts Referred:

Contract Labour (Regulation and Abolition) Act, 1970 — Section 10(1)

Citation : (2002) 6 ALD 471 : (2003) 1 LLJ 518

Hon'ble Judges : S.R. Nayak, J; Dubagunta Subrahmanyam, J

Bench : Division Bench

Advocate : A. Srinivasa Sarma, for the Appellant; K. Srinivasa Murthy, K.G. Krishna Murthy and A. Krishna Murthy, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This writ appeal should not detain us any long. The appellant is the Swatantra Private Security Sibbandi Sangham represented by its General Secretary, Visakhapatnam, and it filed Writ Petition No. 8334 of 1996 praying for the following relief:

"..... to issue an order, direction or a writ more particularly a Writ in the nature of "mandamus" declaring (i) the appointment of Contractor for the purpose of security staff for watch and ward at Hindustan Petroleum Corporation Ltd., at Visakha Terminal, Malkapuram, Visakhapatnam as illegal and arbitrary (ii) declaring the action of the respondents 2 and 3 in not treating the petitioner security staff mentioned in the annexure as the employees of the Hindustan Petroleum Corporation Ltd., on par with the security staff at the terminals like Kandala, Shakur Basti Depot (Delhi), Buz-Buz (Calcutta), who are being treated as the employees of Hindustan Petroleum Corporation Ltd., by the respondents 2 and 3 as illegal and arbitrary and violative of Article 21 of the Constitution of India and consequently (iii) direct the respondents 2 and 3 to treat the petitioner security staff mentioned in the annexure as the employees of Hindustan Petroleum Corporation Ltd., on par with the security staff at the terminals like

Kandala, Shakur Basti Depot (Delhi), Buz-Buz (Calcutta) and grant appropriate pay scales to the petitioner security staff mentioned in the annexure on par with the regular employees of the Corporation from the date of their respective appointment with all consequential benefits"

2. The learned single Judge having opined that what is essentially sought in the writ petition was absorption of the contract labour and regularization of their services in the service of the respondent-Corporation, declined to grant the relief placing reliance on the Judgments of the apex Court in *Catering Cleaners of Southern Railway v. Union of India* 1987 (1) LLJ 345, *Standard Vacuum Refining Co. of India Ltd. v. Its Workmen* 1960 (2) LLJ 233, and *Dena Nath and Ors. v. National Fertilizers Limited and Ors.* 1992 (1) LLJ 289. The view taken by the learned Judge is unexceptionable.

3. It is well settled that a writ petition under Article 226 of the Constitution of India is not maintainable wherein the prayer of the applicant is for abolition of the contract labour. It appears that when this writ petition was instituted in this Court, the Government of India, which is the "appropriate Government" for the purpose of Section 2(a) of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "the Act") had issued a notification under Sub-section (1) of Section 10 of the Act on 9-12-1976 abolishing the contract labour in the respondent-Corporation. However, it needs to be noticed at this stage itself that the validity of the said notification was called in question and ultimately, the matter landed before the apex Court in *Steel Authority of India Ltd. and Others etc. etc. Vs. National Union Water Front Workers and Others etc. etc.*, and the Supreme Court quashed the said notification. The resultant position is that the contract labour in the respondent-Corporation is not abolished.

4. However, the learned Counsel for the appellant-writ petitioner at the time of hearing brought to our notice that as permitted by the learned single Judge an application/petition was presented to the Chief Labour Commissioner (Central) - 4th respondent herein - on 2-1-1998 followed by another representation dated 5-1-2000 seeking abolition of the contract labour in the respondent-Corporation and in that view of the matter, it is just and appropriate to maintain the status-quo till the 4th respondent takes a decision on the representations of the appellant-writ petitioner's Sangham. What is essentially sought in the writ petition is for mandamus to abolish the contract labour in the respondent-Corporation and to regularize the services of the members of the appellant-Sangham. The said relief cannot be granted for the simple reason that the contract labour in the respondent-Corporation is not abolished and the notification issued by the Government of India u/s 10(1) of the Act is quashed in *Steel Authority of India Limited and others case (supra)*. Simply because subsequently, the appellant's Sangham has made representations to the 4th respondent, that fact itself would not vest any enforceable legal right either in the appellant's Sangham or its members to seek Mandamus that the respondent-Corporation should continue their services till a decision is taken on their

representations. Suffice it to state that there is no privity of contract and no relationship of employer and the employee between the respondent-Corporation and the appellant's Sangham and its members. Unless contract labour is abolished in pursuance of the representations made by the appellant-Sangham, issuance of any direction to the respondent-Corporation either to abolish the contract labour or to absorb the services of the members of the appellant-Sangham would not arise. It is also pertinent to notice that the Chief Labour Commissioner (Central) 4th respondent herein - cannot be regarded as the lawful representative to represent the Government of India for the purpose of Sub-section (1) of Section 10 of the Act. Nothing is placed before us that even an appropriate application/representation was made to a lawful authority in the Government of India.

5. In the result, we do not find any substantive or weighty reasons to interfere with the order of the learned single Judge impugned in the writ appeal. The writ appeal is devoid of merits and the same is accordingly dismissed, but with no order as to costs.