

(2001) 08 KAR CK 0030

In the Karnataka High Court

Case No : Writ Petition No"s. 28379 to 28445 of 2001

The Contract Workers of Karnataka Vidyuth Karkane Limited,
Bangalore and Others

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 07-08-2001

Acts Referred:

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

Citation : (2002) 93 FLR 814 : (2001) 6 KarLJ 496 : (2002) 1 KCCR 18 SN

Hon'ble Judges : Chandrashekaraiiah, J

Bench : Single Bench

Advocate : V.S. Naik, for the Appellant; Sree Ranga Associates, for the Respondent

Final Decision : Dismissed

Judgement

The Court

1. These writ petitions are by the Union and the members of the Union who are engaged in doing the work of the 3rd respondent-Management under an independent contractor. The said workers are in service between 2 1/2 years and 12 years. Taking these facts into consideration, the Board of the 3rd respondent-Management passed a resolution dated 7-6-1999 resolving to take the workers who are working under an independent contractor as casual workers with effect from 1-6-1999. But, the State Government on the very day issued a direction to the 3rd respondent-Management not to take any steps to regularise the service of the workers by taking them as casual workers. But, there is some material to show that pursuant to the resolution dated 7-6-1999 the petitioners were given pay slips and were allowed to take festival advance. But they were not paid the salary at Rs. 3,000/- each as per the resolution dated 7-6-1999. Ultimately, the Management had recalled their resolution dated 7-6-1999 and restored the Contract Labour System. Consequent on this, all the workers were reverted back to Contract Labour System from 21-9-1999.

2. The act of the Management in reverting these labourers to the Contract Labour System, made them to come to this Court challenging the said action in W.P. No. 36724 of 1999. This Court by its order dated 17-11-1999 disposed of the writ petition with a direction to the petitioner in the said writ petition to approach the State Government for an appropriate relief for issuance of notification u/s 10 of the Contract Labour (Regulation and Abolition) Act, 1970. Thereafter, in view of the observation made by this Court in the said writ petition, the State Government has referred the matter to the Advisory Board in order to know whether it is a case for issuance of notification u/s 10 of the said Act for the purpose of abolishing the contract labour. The Advisory Board, in turn had constituted a Sub-Committee to examine the feasibility of issuance of notification u/s 10 of the Act, which consisted of the following members:

(a) K. Vittal Rao, General Manager, Kirloskar Electric Company, Bangalore.

(b) V.G.K. Nair, CITU as Member.

(c) D. Kempanna, Joint Secretary Corporation, State Contractors Association as Member.

(d) Assistant Labour Commissioner, Division No. 2, Bangalore as Member Secretary.

This Committee after hearing the 1st petitioner-Union has submitted its report. The said report was placed before me by the learned Government Advocate. The perusal of the report disclosed that V.G.K Nair who represents labourers has recommended for issuance of notification abolishing the contract labour, whereas other two members are of the opinion that no notification be issued u/s 10, abolishing the contract labour, taking into consideration the prevailing circumstances in the 3rd respondent-Management. One of the reasons given by them is the financial position of the 3rd respondent-Management. The report of the Sub-Committee was placed before the Advisory Board. The Advisory Board, after going through the report of the Sub-Committee is of the opinion that it is not a case which warrants issuance of notification u/s 10 of the Act. After going through the report of the Sub-Committee and of the Advisory Board, I am of the view that the reasons given and the findings recorded does not warrant any interference by this Court since this Court cannot substitute its views in place of the views expressed by the expert body.

3. The Supreme Court, in case of Barat Fritz Werner Ltd. Vs. State of Karnataka, , has considered the scope of interference by this Court in the matter of issuance of notification u/s 10 of the Act. In the said decision it is held that it is for the Government to take a decision in consultation with the Advisory Board on the basis of the materials available before it and therefore it is not appropriate for the High Court to substitute its views in place of the views expressed by the expert body. Therefore, I find that there is no reason to interfere in the decision of the Government in not issuing the notification u/s 10 of the Act, as it is on the basis of the report submitted by the expert body.

4. The case of the petitioners is that they have been working for the last several years though under an independent contractor. It is brought to my notice that the petitioners have raised a dispute seeking for regularisation of their services alleging that the Management is not right in reverting them from the post of casual labourers. In this regard the conciliation proceedings are still pending in DLC:1:PTN:CR:5:99 though it was closed at one point of time in view of the pendency of this matter before this Court. When such being the case, it is just and necessary to direct the Conciliation and Deputy Labour Commissioner to complete the proceedings and to submit the result of the proceedings to the State Government as early as possible. Further, since the conciliation proceedings are directed to be completed, I hope the independent contractor under whom the petitioners are working shall not be disturbed and they are allowed to be continued on the terms they were appointed. With this observation, I pass the following order:

(a) Writ petitions are rejected.

(b) However, the Deputy General Manager, Division-I is directed to complete the conciliation proceedings and submit the result to the State Government as expeditiously as possible not later than four months from today.