

A INTERNATIONAL AIRPORTS AUTHORITY EMPLOYEES
UNION AND ANR. ETC. ETC.

v.

AIRPORT AUTHORITY OF INDIA AND ORS. ETC. ETC.

APRIL 11, 1997

B

[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Labour Laws :

C *Contract labour—Regularisation of—Where the workmen who are covered by the High Court judgment, their regularisation to take effect from the date of the High Court judgment—Where the matter is not covered by the High Court judgment but by judgment of Supreme Court abolishing contract labour, such workmen to be regularised from the date of the judgment viz. December—9, 1996—Directions issued.*

D

Air India Statutory Corporation Etc. v. United Labour Union & Ors. Etc., [1996] 9 SCALE 70 and Masih Charan & Ors. v. U.O.I. & Ors, W.P. (C) No. 219/1995, decided on March 10, 1997, relied on.

E

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2987-89 of 1997 Etc. Etc.

From the Judgment and Order dated 27.3.86 of the Bombay High Court in W.P. No. 1494/89, 2362/90 and 504 of 1991.

F

T.R. Andhyarujana, Solicitor General, Ms. Indra Jaisingh, K.K. Singhvi, Sanjay Parikh, Ms. Anita Shenoi, Brij Bhushan, Vineet Kumar, B.N. Singhvi, Sanjay Singhvi, R.N. Keshwani, P.K. Manohar, Ms. Nina Gupta, K.B. Swamy, Ms. Kiran and Neeraj Sharma for the appearing Parties.

G

The following Order of the Court was delivered :

Leave granted.

H

These appeals arise from the judgment of the Division Bench of the Bombay High Court made on March 27, 1996 in W.P. Nos. 1494/89, 2362/90 and 504/1991. The appellant-workmen came to be employed as

sweepers in International Airport, National Airport Cargo Complex and Import Warehouse. Consequent upon the abolition of the contract labour system with effect from December 9, 1976 in the light of the judgment of this Court in *Air India Statutory Corporation Etc. v. United Labour Union & Ors. Etc.*, (1996) 9 SCALE 70 they are also entitled to be regularised with effect from the date of the judgment of the High Court and where the matter is not covered by the judgment with effect from the date of the judgment rendered on December 6, 1996, as held in *Masih Charan & Ors v. U.O.I. & Ors.*, in Writ Petition (C) No. 219/1995 dated March 10, 1997.

Shri Singhvi and Ms. Indira Jaising, learned senior counsel have brought to our notice that the workmen have been working for a long time. Though the regularisation of their services with effect from the date of judgment was given by this Court since they have come in appeal by virtue of that part of the judgment in these cases viz., they are not entitled to the benefit from the date of the abolition of the contract labour system, the same benefit may be given from the date of the judgment of the High Court. With a view to maintain uniformity in the orders passed, we think that the procedure adopted earlier would be the feasible one in the fact-situation, namely, where the matter is covered by the judgment of the High Court, the regularisation will be with effect from the respective dates. Where the matter is not covered by the judgment of the High Court, i.e., in the case filed under Article 32, it operates from the date of the judgment of this Court in *Air India Statutory Corpn. Etc. v. United Labour Union & Ors.*, [1996] 9 SCALE 70. However, since they have been working for a long time prior to the abolition of the contract labour system where the principle of pension and gratuity scheme is in operation, the authorities are directed to compute the previous length of service from the date of appointment by contract till they retire from service for the purpose of all retiral benefits. However, if there is any dispute as to the date from which they are working, it is always open to the respondents to verify the same with prior notice to the respective workmen or accredited agents, as the case may be, and then decide that particular controversy in an individual case.

The appeals are, accordingly, disposed of. No costs.

A Leave granted.

This controversy also involves three type of workmen, namely, sweepers, canteen workers and cabin catering cleaners. As far as the sweepers are concerned, it is covered by the judgment of this Court in *Air India Statutory Corpn. Etc. v. United Labour Union & Ors.*, (1996) 9 SCALE 70. Therefore, they are entitled to regularisation with effect from the date of judgment of the High Court. Though the High Court has disallowed the relief since we allowed the similar benefit, they are entitled to the benefit from the date of the High Court judgment. With regard to canteen workers the matter requires remittance for reconsideration by the High Court in the light of the judgment in *Air India Statutory Corporation* case and other cases on the subject. Therefore, the High Court is requested to consider the case afresh.

The appeal is, accordingly, disposed of. No costs.

D C.A..... @ S.L.P. (C) No. 13533/96 & S.L.P. (C) 19232/96

Leave granted.

We have heard learned counsel on both sides.

E These appeals by special leave arise from the judgment of the Division Bench of the Bombay High Court made on March 27, 1996 in W.P. No. 431/92 and 1439/91.

The appellants are challenging the order of the High Court directing the Central Advisory Board constituted under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (for short, the 'Act') to go into the question of regularisation of the employees engaged in various fields. The workers represented by the appellants were employed at Staff Colony at Kalina, Indian Airlines buildings owned by the Air India. Their case is that they are employed as contract labour by the various employers on behalf of the principal employer, namely, Air India. The Notification dated December 9, 1976 relates to the abolition of the contract labour engaged in sweeping, clearing, dusting and watching of buildings owned by Air India. As a consequence, they are also entitled to be appointed on regular basis. They relied upon the judgment of this Court in *Air India Statutory Corpn. Etc. v. United Labour Union & Ors.*, (1996) 9 SCALE 70.

H Shri Singhvi, learned senior counsel contends that in view of the above

decision and in view of the notification they are entitled to the same benefit which was given to the employees who were directed to be regularised in the above judgment. The High Court has not examined the matter in true perspective. Instead of directing Central Advisory Board to go into the question, the High Court would go into and decide the matter in accordance with law. We decline to express any opinion on merits since we are remitting the matter to the High Court for reconsideration. We would, therefore, request the High Court to dispose of the matter as expeditiously as possible.

The appeals are, accordingly, allowed. No costs. *Status quo* as on today shall continue.

C.A. @ S.L.P. (C) Nos. 4088-4093/97

Delay condoned. Leave granted.

In view of the decision taken by this Court in *Air India Statutory Corpn. v. United Labour Union & Ors.*, (1996) 9 SCALE 70 since National Labour Advisory Board constituted under Section 10 of the Act has not opined for abolition of posts in which these workers employed on contract labour in the Trolley Retrievers (W.P. No. 1494/89), Loaders (W.P. No. 1494/89, Bird Chasers (W.P. No. 1263/91), Conveyor Belt Workers (W.P. Nos. 2641/92, 1256/96), Car-parking Clerks (W.P. No. 2362/90) (Employed at International and National Airports of Airport Authority of India), Electrical Maintenance Workers (W.P. No. 430/92) and Civil Maintenance Workers (Employed at Staff Colony at Kalina, Indian Airlines) (W.P. No. 430/92), we think that the appropriate course to be adopted by the High Court would be to direct that the Board to examine the matters and then give necessary advice to the Government of India for taking appropriate action under Section 10.

The appeals are accordingly dismissed but they will be subject to decision by the Board. No costs. *Status quo* would continue. Those who were dismissed earlier are directed to be reinstated.

C.A. ... @ S.L.P. (C) No. 13055/96

Leave granted.

This appeal arises from the judgment of the Division Bench of the

- A Bombay High Court in W.P. No. 498/87 dated February 28, 1996. The controversy raised in this case is squarely covered by the judgment of this Court in *Air India Statutory Corporation Etc. v. United Labour Union & Ors.*, (1996) 9 SCALE 70. Their contract was terminated in December 1983 and they challenged the writ petition in 1987 and High Court, therefore was justified in dismissing the writ petition on the ground of limitation. We find no force in the contention. They worked for 12 years upto December 1983 and thereafter when they were sought to be terminated they filed a complaint on December 18, 1983 under the Act against the contractor. They obtained interim order from the competent authority restraining the first respondent from terminating the contract of workers. Before receipt thereof, they served the termination order dated December 19-20, 1983 and effected termination. Consequently, they filed a fresh application on December 22, 1983. Therein they sought reinstatement. The High Court of Bombay in the similar matter has held that since the notification applies only to the Central Government and the State Government has not issued the notification, the termination order was upheld. When the matter was initiated in the M.R.T.P. Act the Labour Court also took the same view. Under these circumstances, they came to be filed. Thus, it could be seen that the Government have not considered every matter. They have been agitating the rights in one form or the other. As a consequence, they are entitled to the same benefit as was given in the earlier appeals.

- E The appeal is accordingly, allowed. They are entitled to be reinstated and have their services regularised. No costs.

I.A. Nos. 8-10/1997 in C.A. Nos. 15523-34/96

- F I.As. are dismissed.

Contempt Petition (C) Nos. 235-237/97

No contempt in view of the above clarifications.

- G G.N. C.A. Nos. 2987-89/97, 2990/97
Appeal disposed of.
C.A. Nos. 2991, 2992 and 2999/97 allowed.
C.A. Nos. 2993-98/97 dismissed.

- H