

PUNJAB AND HARYANA HIGH COURT

Gian Singh

Vs

Senior Regional Manager Food Corporation of India

(B.S.Nehra,J)

27.11.1990

JUDGEMENT

B.S.Nehra,J

- (1.) SINCE the matter is of great importance and many cases on the same point are pending decision, we heard the learned counsel for the parties at length as we intended to dispose of these Letters Patent Appeals at the motion stage.

(2.) THIS judgment would dispose of Letters Patent Appeals Nos. 1215 and 1214 of 1990, as these arise out of a common judgment of the learned Single Judge, by which 17 writ petitions involving the same questions of law and fact were dismissed. To appreciate the rival contentions of the parties, it would be necessary to notice the factual background as well as certain provisions of law, on the basis of which the appellants (writ-petitioners) staked their claim in the writ petitions. Respondent Food Corporation of India (hereinafter referred to as the Corporation) has been constituted by the Act of Parliament, viz. the Food Corporation Act 1964, with the object of procurement, Storage, movement in distribution of Food grains throughout the country. The Corporation employs for the discharge of this work, three types of labourers (i) departmentalised labour who are its regular employees; (ii) direct paid labour and (iii) contract labour, who are employed by the Corporation through the intermediary of the contractors. The appellants (writ-petitioners) are the employees of the third category referred to above. Respondent No. 4 in the present appeal is a contractor running the business of security and deployment services, which provides Security Guards to various establishments whenever an Establishment asks for such services. The appellants are servicemen and registered with the said contractor. According to the Corporation, the work of procurement, storage, movement and distribution of foodgrains is seasonal, sporadic and varies from region to region. The Corporation requires Security Guards for the protection of feed stuffs. Though the Corporation "has its own watch and ward staff, but it also requires from time to time more staff to supplement the regular staff for the purpose of providing security service as and when need arises. The requirement of Security Guards fluctuates depending upon the stock in hand. It is for this reason that Corporation at the district

level enters into agreements with the agencies of contractors like respondent No. 4 for providing security services at its food storage depots and open storage complexes as and when it becomes necessary along with regular staff of the Corporation. The contractor deploys Security Guards according to the requirement of the Corporation. The payment by the Corporation is made directly to the contractor according to the agreement, who, in turn pays to the Security Guards. There is no direct control of the Corporation over these Security Guards- and-they are not directly employed by the Corporation and there does not exist any relationship of 'master' and 'servant' between the Corporation and such Security Guards and other employees provided by the contractor.

(3.) THE case as pat forth by the appellants (writ petitioners) was that they are working as Security Guards with the Corporation and according to the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter called the Act), they were the direct employees of the Corporation. as the Principal Employer, and therefore, they should be considered as regular employees of the Corporation and should be governed by the same service conditions as the regular employees of the Corporation, which are contained in the Food Corporation of India. (Staff) Regulators, 1971, framed in exercise of the powers conferred by Section 45 of the- Food Corporation Act, 1964. The learned Single Judge, after noticing various provisions of the Act and the law laid down by the Apex Court on the subject, came to the conclusion that the writ petitioners continued to be the employees of the Contractor and not of the Corporation and were not entitled to any relief under Articles 226/227 of the Constitution of India. Dissatisfied with the judgment, the writ-petitioners have come up in the present appeals, ;