

THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT APPEAL No.265 of 2007

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JUDGMENT: (per the Hon'ble Sri Justice A.Ramalingeswara Rao)
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Heard the learned counsel for appellants and the learned Standing Counsel for respondents 1 to 4.

2. This Writ Appeal is directed against the order dated 05.02.2007 in W.P.No.6285 of 1997 passed by the learned Single Judge of this Court.

3. The petitioners/appellants claim to be performing the duties of Helper under the employment of Lions Club of Vijayawada for the purpose of distributing electricity consumption bills from the third respondent office to the consumers. They claim that they have put in considerable length of service from 1993. The remuneration for the appellants was paid by the Lions Club of Vijayawada and it was released by the respondents Electricity Board. Their claim is that though their nature of work is that of a regular Helper, their services were being utilised by the Electricity Board through the Lions Club of Vijayawada. Their further claim is that though they were discharging the duties of perennial nature, they were being treated as contract workers, which is contrary to the provisions of the Contract Labour (Abolition and Regulation) Act. The appellants sought regularisation of their services as Helpers taking into consideration the length of service put in by them.

4. The respondents filed a counter-affidavit denying the averments made in the affidavit filed in support of the Writ Petition filed by the appellants. It was stated that the respondents decided to entrust the work of distribution of bills to the consumers through voluntary

organisations. Thus, the work of serving bills in Vijayawada City was entrusted to the Lions Club of Vijayawada and Chamber of Commerce, who had come forward to undertake the work. As per the rate contract entered with them, the payments were being made to the voluntary organisations only on production of acknowledgement in token of having distributing the bills to the consumers in each month. The respondents further stated that they have nothing to do with the engagement of the persons by those organisations and there is no privity of contract between the petitioners/appellants and the respondents. They cannot be treated as electricity workers employed by the respondents. Further, the contract was entered by the concerned Electrical Revenue Officer, like the third respondent, and the Board never entered into such contract.

5. Taking into consideration the above rival contentions, the learned single Judge of this Court dismissed the Writ Petition on the ground that the petitioners/appellants are not even employees of the respondents Board and hence the question of their regularisation does not arise. Learned single Judge, by relying on the decision of the Supreme Court in **Secretary, State of Karnataka v. Umadevi**^[1], held that no mandamus can be issued directing regularisation of such employees.

6. It is clear from the above facts that the appellants were engaged by a voluntary organisation like the Lions Club, Vijayawada. They were entrusted with the duty of distributing electricity bills to the consumers every month. The rate contract was entered by the concerned Electrical Revenue Officer with the Lions Club, Vijayawada, who may be paying remuneration to the appellants. Thus, there is no privity of contract between the appellants and the respondents. The respondents have no say in the employment of the appellants and by no stretch of imagination, they can seek regularisation of their services. In a later decision in

Nand Kumar V. State of Bihar^[2], the Hon'ble Supreme Court relied on the decision cited by the learned single Judge and other decisions and held as follows:

“We have consciously noted the aforesaid decisions of this Court. The principle as has been laid down in **Secretary, State of Karnataka v. Umadevi** ((2006) 4 SCC 1) has also been applied in relation to the persons who were working on daily wages. According to us, the daily wagers are not appointees in the strict sense of the term ‘appointment’. They do not hold a post. The scheme of alternative appointment framed for regular employees of *abolished organisation cannot, therefore, confer a similar entitlement on the daily wagers of abolished organisation to such alternative employment*. [See **Avas Vikas Sansthan v. Avas Vikas Sansthan Engineers Association** ((2006) 4 SCC 132)]. Their relevance in the context of appointment arose by reason of the concept of regularisation as a source of appointment. After **Umadevi** (supra), their position continued to be that of daily wagers. Appointment on daily-wage basis is not an appointment to a post according to the rules. Usually, the projects in which the daily wagers were engaged, having come to an end, their appointment is necessarily terminated for want of work. Therefore, the status and rights of daily wagers of a Government concern are not equivalent to that of a Government servant and his claim to permanency has to be adjudged differently.”

7. However in the instant case, the petitioners/appellants were not engaged as daily wagers by the Board but by voluntary organisations. Hence there is no merit in the case of the appellants.

8. In view of the above, we are in perfect agreement with the order of the learned single Judge and accordingly the Writ Appeal is dismissed. Miscellaneous petitions pending, if any, stand disposed of. There shall be no order as to costs.

DILIP B.BHOSALE, J

A.RAMALINGESWARA RAO,J

Date: 29.01.2015
TJMR

[\[1\]](#) (2006) 4 SCC 1

[\[2\]](#) (2014) 5 SCC 300