IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.07.2018
CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN
W.P.No.19105 of 2010

1.B.Baskar
2.N.Ruthramurthy ... Petitioners

Vs.

1.Union of India,
rep. by its Secretary,
Ministry of Civil Aviations,
Government of India, New Delhi.

2.The Management of Air India Ltd.,
Rep. by its Chairman & Managing Director,
Hansalaya building, V Floor,
New No.15, Baracomba Road,
New Delhi 110 001.

3.The General Manager – Personnel,
Air India Ltd.,
National Aviation Company of India Ltd.,
Air Line House, Meenambakkam,
Chennai – 600 027.

4.The Regional Manager,
Air India Ltd.,
Marshall road, Egmore, Chennai – 600 008.

5.The Deputy Manager (Air Port),
Anna International Air Port,
Meenambakkam, Chennai – 600 027. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the Respondents to frame a scheme for the regularisation of the petitioners engaged in the casual helper / commercial unit of Air India Ltd., at the International Air Port at Chennai prior to this date and pending framing of the scheme utilize the labour engaged in the past including the petitioners herein.

For Petitioners : Mr.S.Gunaseelan

For R1 : Mr.Madhana Gopal Rao

For R2 & R4 : Mr.N.G.R.Prasad

For R3 : Mr.K.Srinivasamurthy

For R5 : Mr.M.Palanimuthu,
Standing Counsel

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O R D E R

The prayer made in this writ petition is to issue a writ of mandamus, directing the respondents to frame a Scheme for regularisation of the petitioners, who were engaged as casual helpers in the commercial unit of Air India Ltd., at the International Air Port at Chennai prior to this date and utilize the labourers engaged in the past including the petitioners herein, pending framing of the Scheme.

2.According to the petitioners, they joined as casual helpers in Air India Limited in the years 1995 and 1993 respectively and their nature of the work is that of permanent and perennial. However, the Air India engages workmen for short durations to deny them the benefit of permanency and other consequential benefits. Hence, this writ petition.

3.When the matter was taken up for consideration, the learned counsel for the petitioners submitted that the issue involved herein is covered by the earlier order of this Court dated 28.03.2018 passed in WP.No.17513 of 2010 etc. batch of cases [Antson Joseph and others v. the Union of India rep. by the Secretary, Ministry of Civil Aviation, New Delhi and others], wherein, this Court disposed of those writ petitions with the following observations:

> "17. As rightly contended by the learned counsel appearing for the respondents 2 and 3 that in view of drastic changes in Aviation industry over a period of time due to open sky policy adopted by the Government of India, the monopoly of the respondent Airlines had ended. In view of global competition in the Aviation industry, the Airlines had also suffered huge financial loss and eventually even unable to pay salaries due to the permanent employees regularly. Moreover, when the ground handling activity has been outsourced in all Airports in the country and these petitioners having been employed only in such activity, they cannot be ordered to be absorbed permanently in the respondent Airlines. As stated by the learned counsel for the respondents that the respondent Airlines was not recruiting any permanent Helpers for the last many years after the exist of permanent employees from employment. That being the case, the question of consideration of the original prayer by this Court as sought for in the writ petitions, does not arise.
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> 18. In view of the inevitable changes which

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took place in the Aviation industry, this Court has to take practical and pragmatic view to find just and equitable solution to the employment crisis faced by the petitioners. As contended by the learned counsel for the petitioners that atleast the present state of employment of the petitioners with the 7th respondent has to be protected, since they cannot be made to work under constant fear of termination at any time, particularly, in the teeth of the fact that these petitioners had been employed as Helpers for more than two decades. That is why, probably the learned counsel appearing for the petitioners had pleaded only for limited protection in order to atleast protect the present nature of employment of the petitioners, instead of seeking for absorption of their services with the respondent Airlines.

19. Considering the submissions made on behalf of the petitioners that their nature of present employment as indicated in the contract of appointment entered into by the 7th respondent with the individual workman as reflected in specimen copy enclosed in additional typed set of papers, dated 19.5.2016, which pertains to one of the workmen, namely, Thiru.S.Venkatesan, on the same terms and conditions and such employment shall be continued in respect of other petitioners who were offered such appointment till they attain the age of superannuation. As rightly contended by the learned counsel for the respondents 2 and 3 that the requirement of man power may change from time to time due to fluctuating market trends as the ground handling activity may increase or decrease depending upon the client-Airlines patronage. Therefore, considering the said submissions, this Court is of the view that as long as man power requirement is there by the second respondent, the services of the petitioners ought to be utilized and the petitioners at no point of time should be replaced by any other casual arrangement by resorting to employ other persons. It is made clear that on the basis of genuine man power requirement, it is always open to the 7th respondent to downsize or rightsize the employment as and when the situation demands and depending on such contingencies, these petitioners shall be continued in service with

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the terms and conditions of services as stipulated by the 7th respondent. In any case, the petitioners' employment cannot be brought to end by adopting any unfair mean or unfair labour practice by bringing other casual workers from the open market in order to displace the petitioners herein.

With these observations and directions, these Writ Petitions shall stand disposed of. No costs."

Therefore, the learned counsel prayed for a similar order in this writ petition as well.

4.The learned counsel for the respective respondents has conceded the submissions so made by the learned counsel for the petitioners and expressed no objection for granting such relief to the petitioners.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court disposes of this writ petition in line with the aforesaid order dated 28.03.2018 in WP.No.17513 of 2010 etc batch of cases. No costs.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary, Union of India,
Ministry of Civil Aviations,
Government of India, New Delhi.

+2cc to Mr.N.G.R.Prasad, Advocate SR.No.40506 & 47705
+1cc to Mr.J.Madhanagopal Rao, Advocate SR.No.47446
+1cc to M/s.S.Gunaseelann, Advocate SR.No. 47314
+1cc to M/s.M.Palanimuthu, Advocate SR.No.47309

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CP(CO)
GN(27/08/2018)

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