

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT PETITION No.1170 of 2020

Date: 10.02.2020

BETWEEN

Defence Electronics Research Laboratory (DLRL)
Casual Workers Union (Regd.No.B-2808), DLRL and another.

... PETITIONERS

AND

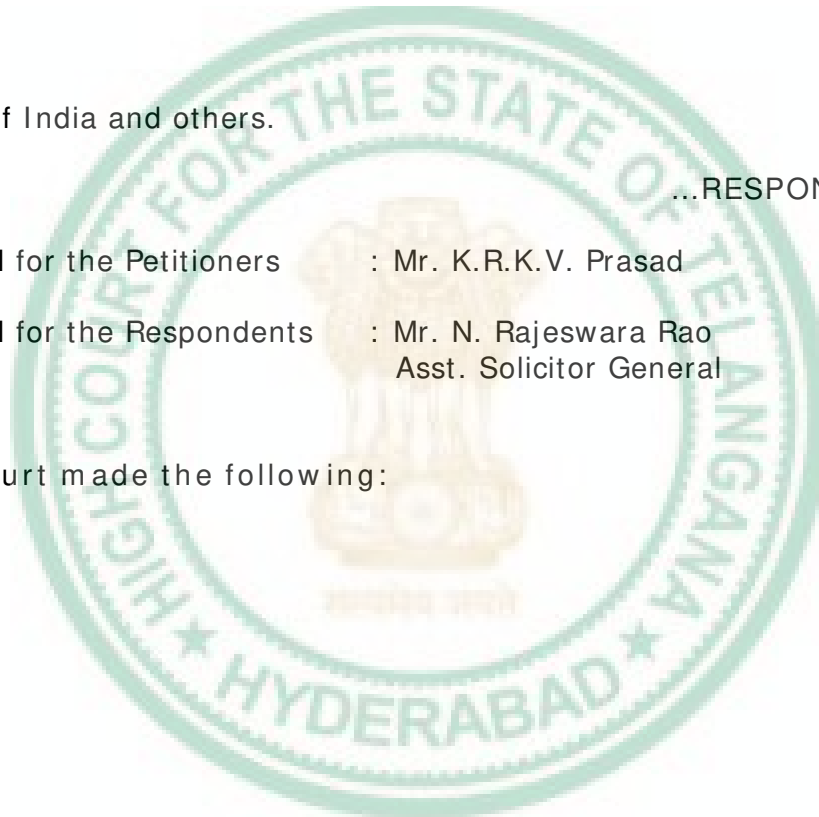
Union of India and others.

...RESPONDENTS

Counsel for the Petitioners : Mr. K.R.K.V. Prasad

Counsel for the Respondents : Mr. N. Rajeswara Rao
Asst. Solicitor General

The Court made the following:



ORDER: { Per the Hon'ble the Chief Justice Sri Justice Raghvendra Singh Chauhan}

The petitioners have challenged the legality of the order dated 14.01.2020, passed by the Central Administrative Tribunal, Hyderabad Bench in M.A.21/34/2020 in OASR 100/2020, whereby the learned Tribunal had declined to grant interim order in favour of the petitioners .

2. The brief facts of the case are that the petitioner No.1, Defence Electronics Research Laboratory (DLRL) Casual Workers Union filed an OA challenging the notification No.DRDO Entry Test: 2019-20/MTS inserted in Employment News December 21-27 of 2019 issued by the respondent No.2. According to the petitioners, the said advertisement was issued for recruiting 1,817 personnel for different vacancies. Furthermore, according to the petitioners, the trade union has been fighting a protracted litigation since 2005 for seeking permanent employment by way of regularization for its members in DLRL situated in Hyderabad. Moreover, according to the petitioners, on an earlier occasion, when the respondents tried to replace the members of the trade union, who are casual labourers, with another set of temporary employees, they had challenged the said move made by the respondents by filing WP.No.21456 of 2008. In the said writ petition, this Court had directed the respondents to continue the services of the members of the trade union. Similarly, on another occasion when the same move was made by the respondents, certain members of the trade union had filed another writ petition, namely, WP.No.3901 of 2019. By order dated 26.02.2019, a learned Single Judge had directed that the services of the petitioners therein should be continued. Furthermore, according to the petitioners, they had raised an industrial dispute, against the respondents. By order dated 03.08.2009, the Government of India made a reference as follows:

“Whether the contract between the management of Defence Electronics Research Laboratory, (DLRL) and the contractors with regard to employment of Shri G. Lingam and 17 others, as per Annexure, is sham and bogus? If yes, whether the demand of the All India Defence Employees Federation for regularization of the services of these workers by the management is legal and justified? If yes, what relief the workmen are entitled to?”

Therefore, according to the petitioners, the said issue with regard to their regularization is still pending before the Industrial Tribunal. Therefore, aggrieved by the issuance of the notification, the petitioners had filed the OA before the learned Tribunal. However, by order dated 14.01.2020, the learned Tribunal has declined to stay the recruitment process. Hence, the present writ petition before the Court.

3. Mr. K.R.K.V. Prasad, the learned counsel for the petitioners, submits that since the matter is sub-judice both before this Court and the Industrial Tribunal, the learned Tribunal should have granted an interim order in favour of the petitioners by staying the recruitment process.

4. On the other hand, Mr. N. Rajeswara Rao, the learned Assistant Solicitor General, submits that the petitioners have failed to establish the three factors for issuance of temporary injunction in their favour, namely, existence of a *prima facie* case, balance of convenience and irreparable loss. Since they are casual workers, they cannot claim a lien over the post. Moreover, the respondents are justified in initiating a regular recruitment process. Therefore, neither existence of strong *prima facie* case, nor balance of convenience is in favour of the petitioners. Moreover, irreparable loss will be caused to the

respondents in case regularly selected persons are not permitted to be appointed. Therefore, he has supported the impugned order.

5. Heard learned counsel and perused the impugned order.

6. It is the settled principle of law that casual workers do not have a lien over the post as their employment is of a temporary one. Moreover, the employer will be justified in regularly recruiting the employees for the vacant post. Therefore, the petitioners do not seem to have a strong *prima facie* case in their favour.

7. Moreover, even if the petitioners have two stay orders granted by the learned Single Benches of this Court, those orders have been passed in the facts and circumstances of the case where one set of temporary employee were being replaced by another set of temporary employees. It is a settled principle of law that one set of temporary employees cannot be replaced by another set of temporary employees. Therefore, the learned Single Benches were justified in passing the said order in favour of the petitioners. However, neither of the two stay orders come to the rescue of the petitioners for the factual matrix has changed. For the respondents are no longer replacing one set of temporary employees with another set of temporary employees. Instead, they have initiated a regular recruitment process. Therefore, temporary employees are replaced by regular set of employees. Hence, the balance of convenience is also not in favour of the petitioners.

8. But in case, the petitioners were to be replaced by regularly selected employees, they may suffer financial loss. In order to balance the interest of the respondents in appointing regularly selected employees and the interest of the petitioner – trade union members, the learned Tribunal should have merely pointed out that any

appointment made against the regular vacancies would be subject to the decision of the Industrial Tribunal, as the question of regularization of the petitioners is still pending before the Industrial Tribunal.

9. For the reasons stated above, this Court partly allows the writ petition and modifies the order dated 14.01.2020 to the limited extent that any appointment made by the respondents against the regular vacancies shall be subject to the decision of the Industrial Tribunal in ID.No.36 of 2009.

8. By way of abundant caution, it is hereby clarified that any observation made by this Court with regard to the regularization of the casual workers should not influence the decision of the Industrial Tribunal. The Industrial Tribunal is expected to assess the evidence that is produced by both the parties, and to objectively and impartially pass its award.

As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

A. ABHISHEK REDDY, J

February 10, 2020
DSK