

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2034 OF 2020

Petitioners

- : 1. Union of India,
Ministry of Urban Development (CPWD),
Through its Secretary/Director General,
Nirman Bhawan, New Delhi – 110 011.
2. The Director General,
Central Public Works Department,
Govt. of India, Ministry of Urban Development,
Nirman Bhawan, New Delhi – 110 011.
3. The Chief Engineer,
Central Public Works Department,
Western Zone-II, C.G.O. Complex,
A Block, 2nd Floor, Seminary Hills,
Nagpur – 440 006.
- Versus –

Respondents

- : 1. Manik s/o Mrutunjay Roy,
Aged about 50 years, Occ. Beldar,
In the Office of Chief Engineer,
R/o Flat No.65-A, Bajrang Society,
Manav Seva Nagar, Seminary Hills,
Nagpur – 440 006.
2. Andrew Peter Lazarus s/o Stevan Lazarus,
Aged about 49 years, Occ. Plumber,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur,
R/o 307, Baba Santosh-5, Saw Mill Area, Lashkari
Bag, Nagpur – 440 017.
3. Radhelal s/o Shendlal Nageshwar,
Aged about 53 years, Occ. Carpenter,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur,
R/o Plot No.178, Lok Vihar Park, Bhilgaon, Tah.
Kamptee, Nagpur – 441002.

4. Sunil s/o Premlal Raikwar,
Aged about 49 years, Occ. Beldar,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur,
R/o Plot No.C-14, Gurkar Layout,
Shri Harinagar, Ganpati Nagar, Godhani Road,
Zingabai Takli, Nagpur.
5. Shriram s/o Pandurang Karate (Dead),
Through Legal Heirs.

5(a) Smt. Jayamala Shriram Karate,
Aged about 57 Years.

5(b) Nilima Shriram Karate,
Aged about 3 Years.

Both are R/o Nari, Qtr. No.376, Bldg. No.23,
Mala Colony, Nagpur – 440026.
6. Govind s/o Sampat Sangode,
Aged about 62 Years, Occ. Beldar,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur.
R/o Plot No.59, Aate Layout, Wadi,
Khadgaon Road, Wadi, Nagpur.
7. Arun Jagdeo Raibole,
Aged about 47 Years, Occ. Beldar,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur.
R/o Kolba Swami Society, Plot No.35,
Near Friends Colony, Katol Road, Nagpur.
8. Ashok S/o Gayaji Wadwe,
Aged about 58 Years, Occ. Beldar,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur.
R/o Gond Mohalla, Surendragad, Nagpur.
9. Dilip s/o Atmaram Dhok,
Aged about 55 Years, Occ. Sewerman,
In the Office of Chief Engineer, WZ-II, CPWD, Nagpur.
R/o Plot No.160, Nazul Layout Colony, Bezonbag,
Nagpur.

with

WRIT PETITION NO.2030 OF 2020

Petitioners

- : 1. Union of India,
Ministry of Urban Development (CPWD),
Through its Secretary/Director General,
Nirman Bhawan, New Delhi – 110 011.
2. The Director General,
Central Public Works Department,
Govt. of India, Ministry of Urban Development,
Nirman Bhawan, New Delhi – 110 011.
3. The Chief Engineer,
Central Public Works Department,
Western Zone-II, C.G.O. Complex,
A Block, 2nd Floor, Seminary Hills,
Nagpur – 440 006.
4. The Executive Engineer,
Nagpur Central Division-II, C.P.W.D. Katol Road,
Opp. Police Ground, Nagpur – 440 026.
5. The Executive Engineer,
Nagpur Central Division-II, C.P.W.D.
Block No.15/1, Starkey Town, Sadar,
Nagpur – 440 001.
6. The Executive Engineer,
C.P.W.D. Nagpur Central Electrical Division,
CGO Complex, 'B' Block, 3rd Floor, Seminary Hills,
Nagpur – 440 006.
- Versus –

Respondent

- : Punjabrao Kothiram Bawane,
Aged about 50 years,
R/o House No.514, Shivangaon, Post – Vimantal,
Nagur – 440 005.

with

WRIT PETITION NO.2315 OF 2020

Petitioners

- : 1. Union of India,
Ministry of Urban Development (CPWD),
Through its Secretary/Director General,
Nirman Bhawan, New Delhi – 110 011.
2. The Director General,
Central Public Works Department,
Govt. of India, Ministry of Urban Development,
Nirman Bhawan, New Delhi – 110 011.
3. The Chief Engineer,
Central Public Works Department,
Western Zone-II, C.G.O. Complex,
A-Block, 2nd Floor, Seminary Hills,
Nagpur – 440 006.
4. The Executive Engineer,
Nagpur Central Division-I, C.P.W.D. Katol Road,
Opp. Police Ground, Nagpur – 440 026.
5. The Executive Engineer,
Nagpur Central Division-II, C.P.W.D.
Block No.15/1, Starkey Town, Sadar,
Nagpur – 440 001.
6. The Executive Engineer,
C.P.W.D. Nagpur Central Electrical Division,
CGO Complex, 'B' Block, 3rd Floor, Seminary Hills,
Nagpur – 440 006.

– Versus –

Respondents

- : 1. Rajesh Sadashiv Warghare,
Aged about 49 years,
R/o Ramnagar, Behind Telangkhadi Masjid,
Nagpur – 440 027.
2. Keshav Dhondbaji More,
Aged about 54 years,
R/o 49, Jagdish Nagar, Harajipahad,
Bhivsankhori Road, Nagpur – 440 073.

3. Manoj Ramdas Koche,
Aged about 48 years,
R/o Plot No.19/A, Sripurna Society, Harajipahad,
Bhivsankhori Road, Nagpur – 440 007.
4. Vinod Ramchandra Khanorkar,
Aged about 51 years,
R/o 18, Bhagyashri Nagar, Hudkeshwar Road,
Nagpur – 440 034.
5. Rajkumar Madhukar Ninawe,
Aged about 49 years,
R/o Plot No.41, Kalyaneshwar Nagar,
Manewada-Besa Road, Nagpur – 440 027.
6. Anand Antuji Sonare,
Aged about 48 Years,
R/o Mukkam Ghogli, Post: Lonkhairi,
Nagpur – 441 111.
7. Premlal Shivilal Sahu,
Aged about 52 Years,
R/o Lumbini Nagar, Near Primary School,
Mankapur, Nagpur – 440 030.

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Mrs. Mugdha Chandurkar, Advocate for the Petitioners.
Mrs. Rashmi Deshpande, Advocate for the Respondent(s).
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CORAM: ROHIT B. DEO AND M.W. CHANDWANI, JJ.
DATE : 15th JUNE, 2023.

J U D G M E N T : *(Per M.W. Chandwani, J.)*

Rule. Rule made returnable forthwith. Heard the petitions finally
by the consent of the learned Counsel appearing for the parties.

02] This batch of petitions assail the common order dated 21/01/2020 passed by the Central Administrative Tribunal, Bombay Bench, Mumbai, Camp at Nagpur (hereinafter referred to as “CAT” for short), whereby Original Application Nos.2293/2017, 2148/2017 and 2193/2019 have been allowed and, therefore, these petitions are being disposed of by this common judgment.

03] The respondents herein had filed Original Application Nos.2293/2017, 2148/2017 and 2193/2019 claiming that they are working in the different capacities such as Beldar, Carpenter and Plumber with the Office of petitioner No.3 from different dates between 1989 and 1993. Till the date, the respondents were being paid remuneration through hand-receipts and since 1993, by issuing work orders, treating them as contractors. In fact, the respondents were posted on contractual basis, but it has been camouflaged as they are daily rated workers for carrying out the specific work assigned to them. The respondents since 1993 were requesting for grant of temporary status and for regularizing of their services.

04] In view of the Office Memorandum of the petitioners, dated 10/09/1993, whereby it has been decided to confer temporary status to all the casual labourers, who have completed continuous service of at least of one

year or engaged for a period of at least 240 days. The respondents were in service of the petitioners on 10/09/1993 and, therefore, they are eligible for grant of temporary status. The seniority list of casual labourers engaged for different work was also maintained by the petitioners showing the name of the respondents on the basis of period of their work. Therefore, the respondents therein on the basis of another Office Memorandum dated 16/10/2014 sought direction for regularization of their services.

05] The petitioners contested the said original applications before the CAT, Nagpur. After hearing the parties, the CAT, Nagpur vide its the impugned order directed the petitioners herein to reconsider the claim of the applicants for regularization against Group-D or any other post and also directed that if the respondents herein are found eligible, the petitioners to regularize their services with all consequential benefits. Feeling aggrieved with the impugned order, the present writ petition came to be filed.

06] Heard the learned Counsel for the petitioners as well as the learned Counsel for the respondents in the respective petitions. We have gone through the record of the cases and, in particular, the impugned order dated 21/01/2020.

07] The learned Counsel for the petitioners would submit that the respondents were not the employees of the petitioners, but they were kept on the contract basis to attend the specific complaint, if any, received by them. The respondents were being issued with the work orders. The learned Counsel for the petitioners relies on the work orders issued to the respondents. On the strength of the said work orders of the contract, it is argued that since they are not the employees of the petitioners, there is no question of the respondents of being the temporary employees of the petitioners and consequently the regularization of the respondents cannot be done. According to the learned Counsel for the petitioners, this aspect has not been appreciated by the CAT, Nagpur in its impugned order. It is submitted that the order of the CAT is not a speaking order and, therefore, on this ground alone, the order of the CAT is required to be set aside.

08] As against this, the learned Counsel for the respondents would submit that though the petitioners started issuing the work orders to the respondents from 1993 onwards, but the fact remains that prior to 1993, the respondents were being paid through hand receipts. Even, after issuance of the work orders by showing the respondents as contractors, the work orders have been issued to each of the respondents individually and the payments have been directly made to the respondents and not to any contractors. The

sum and substance of the submission of the learned Counsel for the respondents is that the respondents are the workers of the petitioners on temporary basis. They are neither the contractors nor have been appointed through any contractor. She supported the judgment of CAT, Nagpur and prays for dismissal of the of the writ petitions.

09] Perusal of the record shows that initially, the respondents were being paid through hand receipts and later on the specific work orders were issued in the name of the individual respondents to do a particular work on contractual basis. The fact remains that it is not a case that the contract has been awarded to some contractors to supply the labourers and the respondents are appointed through any contractor, but, the payment of work being done by the respondents were directly made to them. Evidently, the seniority list of the respondents *inter se* has been maintained by the petitioners. Considering the fact that initially the respondents were being paid through hand receipts and subsequently work orders were being issued in the name of individual respondents showing them as contractor and the payments were being directly made to these respondents, who were doing actual work of the petitioners, couple with the factum of maintaining seniority list of the respondents *inter se*, leave no doubt that the respondents were engaged with the petitioners as temporary employees and not on contract

basis. No fault can be seen with these findings of the CAT.

10] The learned Counsel for the respondents also brought to our notice that the Central Administrative Tribunal, Jabalpur Bench in Original Application No.786/1996 has held that the applicants therein have been employed in one or another form by the petitioners herein and have also been directly paid and, therefore, the directions were given by the CAT, Jabalpur Bench to regularize their services in accordance with the law. The said order of the CAT at Jabalpur Bench has been complied and implemented by the petitioners. The respondents herein are also similarly situated persons. We fail to understand when the order of the CAT at Jabalpur Bench has been complied, why the petitioners are hesitating in complying with the order of that CAT at Nagpur Bench. We do not see any infirmity in the impugned order dated 21/01/2020 of the CAT at Nagpur Bench. Therefore, it does not require interference by way of these writ petitions under Article 226 of the Constitution of India. We find no merit in the writ petitions, hence, the petitions are dismissed.

11] Rule is discharged with no order as to costs.

(M.W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

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