Mineral Exploration Corporation ... vs Mineral Exploration Corporation ... on 26 July, 2006

Author: Ar. Lakshmanan

Bench: Ar. Lakshmanan, Lokeshwar Singh Panta

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           CASE NO.:
Appeal (civil)  2027-2028 of 2000

PETITIONER:
Mineral Exploration Corporation Employees' Union

RESPONDENT:
Mineral Exploration Corporation Limited and Anr.

DATE OF JUDGMENT: 26/07/2006

BENCH:
Dr. AR. Lakshmanan & Lokeshwar Singh Panta

JUDGMENT:
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JUDGMENT Dr. AR. Lakshmanan, J.

The appellant before us is the Mineral Exploration Corporation Employees' Union (AITUC) through its General Secretary, Respondent No.1 is the Mineral Exploration Corporation Ltd., though its Chairman and Managing Director, Seminari Hills, Nagpur and the second respondent is the Union of India through the Secretary, Ministry of Labour, New Delhi.

The appellant-Union preferred the above appeals against the common judgment and order dated 26.2.1999 of the High Court of Madhya Pradesh at Jabalpur in Writ Petition Nos. 1981 and 5423 of 1998 whereby the High Court allowed Writ Petition No. 1981 of 1998 filed by respondent No.1 (Corporation) and dismissed Writ Petition No. 5423 of 1998 filed by the Union and has set aside the award passed by the Industrial Tribunal dated 24.3.1998.

The appellant is a registered Trade Union affiliated to AITUC. Respondent No.1 (Corporation) is a Public Sector Undertaking managed and controlled by the Ministry of Mines and is engaged in the exploration/discovery of mineral prospects/resources for rapid industrial growth in the country. Respondent No.1 is having various projects all over the country including their branches in the State of Madhya Pradesh and has employed approx. 5000 employees in various projects who are engaged in the exploration work in the projects.

According to the Union, the workmen engaged in Mineral Exploration Corporation Ltd., hereinafter referred to as "the Corporation" have completed minimum 8 years and maximum 20 years of service

but they were not regularized nor paid regular wages as per the revision of pay scales. Consequently, the workmen started demanding regular pay scales and their regularization in service. On the other hand, the Corporation resorted to retrenchment of workmen which caused serious industrial unrest and ultimately the Union took up the matter and held discussions with the Corporation.

Since the discussion failed, an industrial dispute was raised under the provisions of the Industrial Disputes Act, 1947 before the Regional Labour Commissioner (Central) at Nagpur who held various conciliation meetings with both the parties. Even the conciliation proceedings failed. Thus the Regional Labour Commissioner, Nagpur, in exercise of powers vested in him under Section 12 of the Industrial Disputes Act, 1947, submitted a failure report to the Ministry of Labour, who in turn referred the dispute for adjudication to the Central Government Industrial-cum-Labour Court, Jabalpur vide order dated 7.1.1993. The question referred to the Tribunal reads thus:

> "Whether the action of the management of Mineral Exploration Corporation Ltd., Nagpur in not regularizing the services of S/Shri A.K. Janson 2144 others (as per Annexures `A' attached) and depriving them all fringe benefits like permanent workers is justified? If not, to what relief the concerned workmen are entitled to and from what date?
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> AND Whether the action of the management of MECL, Nagpur in not providing employment to Smt. Surya Gayee and 63 others (As per Annexure - B attached) as the legal heirs/dependents of deceased employees on compassionate grounds is justified? If not, to what relief are they entitled to and from what date?"

The Tribunal, after recording the evidence of both the parties and considering the arguments, vide its award dated 24.3.1998, held that all the workmen in dispute, whose names have been shown in Annexure "A" i.e. 2145 workmen, be regularized in the services of respondent No.1 within a period of three months and further held that the workmen were entitled for regular pay scales, increments, dearness allowance, leave facility from the date of publication of the award. The Tribunal, however, did not award the regularization and regular pay scales from the date of the order of reference. The Tribunal answered the issue in relation to the appointments of heirs/dependents of deceased employees on compassionate grounds, in favour of the Union and thus issued consequential directions to the respondent-Corporation in that behalf. The award was published on 13.4.1998.

The Corporation preferred writ petition before the High Court being Writ Petition No. 1981 of 1998 challenging the Award passed by the Industrial Tribunal. The Union also preferred Writ Petition before the High Court being Writ Petition No. 5423 of 1998 challenging the Award dated 24.3.1998 to the extent the Tribunal refused the relief of regular pay scales and regularization of the workmen from the date of reference i.e., 7.1.1993.

Both the writ petitions were heard together by the learned single Judge of the High Court. The arguments were concluded on 24.11.1998 and after the conclusion of oral arguments; both the parties filed their written statements before the High Court. However, according to the Union, special issues raised by the Union and the material relied upon in support of the contentions have

not been adverted to in the impugned judgment, presumably because the judgment was delivered after some gap of time, which has caused serious miscarriage of justice.

The learned single Judge of the High Court, by a common judgment and order, disposed off both the writ petitions together. The High Court allowed the writ petition filed by the Corporation and set aside the Award passed by the Tribunal in entirety. The High Court affirmed the findings of the Tribunal on material issues, but, reversed the Award and dismissed the writ petition preferred by the Union.

Aggrieved by the same, the Union has preferred the above appeals by way of special leave petitions before this Court. During the pendency of the special leave petitions, this Court on 3.5.1999, passed an interim order directing the Corporation to provide work to the members of the Union as casual employees provided there is work available and if the members of the Union are willing to go to the places where the work is available. On 18.1.2006, this Court directed to call these appeals after the disposal of Civil Appeal Nos. 3595-3612 of 1999 which have been heard by the Constitution Bench. The Constitution Bench delivered the judgment on 10.4.2006. Now these appeals are placed before us for final hearing.

We heard Mr. V.A. Bobde, learned senior counsel, assisted by Mr. K.P. Viswanathan, learned counsel, appearing for the appellant-Union and Mr. V.R. Reddy, learned senior counsel, assisted by Mr. T.G.N. Nair, learned counsel, appearing for the respondents.

Mr. V.A. Bobde, learned senior counsel, appearing for the Union submitted that the High Court, in exercise of writ jurisdiction under Article 227 of the Constitution of India, can not interfere with the findings of fact recorded by the Industrial Tribunal, that too without recording any cogent finding and in the absence of any material to show that the Award passed by the Tribunal suffers from any perversity or error apparent on the face of the record. Though several other grounds have been raised in the appeals, Mr. V.A. Bobde, at the time of hearing, confined the arguments only on two issues. He submitted that the High Court was not right in reversing the Award of the Tribunal even on the question of compassionate appointments notwithstanding the clinching material on record placed before the Tribunal which goes to show that the respondent-Corporation had framed a policy for appointments to be made on compassionate grounds coupled with the fact that commensurate posts were also available and, therefore, it was bound to implement its own policy indiscriminately. He also submitted that the question of non-regularisation of contingent workmen, when each of them has worked for minimum of 8 years and maximum of 20 years, does not have the inevitable effect of commission of unfair labour practice which is prohibited within the purport of Sections 25(T) and 25(U) and that the conclusion reached by the High Court for reversing the Award of the Tribunal on question of regularisation is contrary to the overwhelming evidence adduced on record before the Tribunal and the sound reasoning adopted by the Tribunal for granting the said relief to the workmen. He also submitted that the completion of project by respondent No.1 was inconsequential in view of the established fact that even after the completion of project, contingent workmen were continued in service upon their absorption/continuation in other projects as and when the same was commenced. He further contended that it is obligatory on the respondent-Corporation to regularise the contingent workmen who have completed minimum 8 years of service

and maximum 20 years of service.

Mr. V.A. Bobde contended that the Courts below have totally ignored the evidence of the workers in which they have categorically stated that they are serving with the respondent-Corporation since last so many years and, therefore, the workers are entitled for regularisation and regular pay scales. He invited our attention to the finding of the Tribunal that all the workers were working in the respondent-Corporation since last so many years and the Tribunal has further held that the workers are entitled for regularisation, therefore, there was no justification for denying their claim for regularisation and regular pay scales from the date of the order of reference i.e. 7.1.1993. It was further submitted that the workers have been transferred from one project to the other and they have been given up- gradation, also provident fund contribution have also been deducted from their salaries. As a matter of fact, for all the purposes, workers have been treated as regular employees of the respondent-Corporation, but while making the award, they have been denied the benefits of regularisation and pay scales from retrospective date or at least from the date of order of reference, without any cogent reasons. Likewise, the learned single Judge committed a serious error in interfering with the award relating to compassionate appointment. Paragraph 21 of the judgment was brought to our notice. The conclusion of the learned single Judge is completely vitiated on account of non-consideration of the material on record. In paragraph 21, the learned single Judge set aside the award only on the ground that no decision of the employer was brought to the notice of the learned single Judge for providing appointment on compassionate grounds.

In this connection, Mr. V.A. Bobde, referred to the counter affidavit filed in reply to the writ petition before the learned single Judge in which the whole set-up policy framed by the Corporation along with the correspondence of the Management were placed on record as part of the counter affidavit and specific attention of the learned single Judge, at the time of argument to the said Rule for compassionate appointment, was drawn. The same, however, seems to have been completely missed by the learned single Judge.

Our attention was also drawn to the Scheme for providing suitable employment to persons on compassionate grounds. The Scheme is available at page 205 of Vol.II of the appeal paper book. The Object of the Scheme shall be to give employment to a member of the family of a deceased employee as a welfare measure. The Scheme says that one dependent of the deceased employee in whose case these rules are applicable shall be entitled for consideration of the employment in the following orders of precedence:

(i) Wife or husband as the case may be

(ii) Son

(iii) Unmarried daughter

(iv) Mother or Father

(v) Brother

(vi) Unmarried sister Note : In case of more than one claimant in the same category, the senior most person in that category will be given precedence.

At the time of hearing, our attention was drawn to the judgment delivered by the Constitution Bench of this Court in the case of Secretary, State of Karnataka & Ors. v. Umadevi, 3 and Ors., [2006] 4 SCC 1. The said case deals with public employment, absorption, regularization, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed/recruited and continued for long in public employment de hors the constitutional scheme of public employment. Our attention was specifically drawn to paragraph 53 of the said judgment authored by Hon. P.K. Balasubramanian, J. for the Bench, which reads thus:

> "One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [1967] 1 SCR 128, R.N. Nanjundappa [1972] 2 SCR 799, and B.N. Nagarajan [1979] 3 SCR 937, and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

It is seen from the above paragraph that this Court directed the Union of India, the State Governments and their instrumentalities to regularize as a one-time measure, the services of such irregularly appointed workmen, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or of Tribunals and should further ensure that regular recruitments are undertaking to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed.

Placing strong reliance on the above passage, Mr. V.A. Bobde submitted that the respondent-Corporation should be directed to take steps to regularize the services of the members of the appellant-Union who have worked for ten years or more in duly sanctioned posts. He further submitted that in view of the verdict of the Constitutional Bench, the respondent-Corporation is duty bound to consider the case of the members of the appellant-Union who satisfy the test

prescribed in paragraph 53 of the above judgment.

Mr. V.R. Reddy, learned senior counsel for the respondent first invited our attention to the various documents relied on by the Corporation. He drew our attention to the Appointment Order. A model Form of Appointment Order reads as under:

> "TEMPORARY INDUSTRIAL ESTABLISHMENT OF MINERAL EXPLORATION CORPORATION AT _____ PROJECT APPOINTMENT ORDER Shri _____ S/o _____ is hereby offered a temporary appointment on contingent/temporary basis @ Rs. _____ per day for unskilled nature of job in the temporary industrial establishment at _____, project on the following terms and conditions:
>
> (i) The appointment will be purely on contingent/temporary basis and the contract of employment will terminate on _____ or completion of work whichever is earlier. The contract of employment can be renewed for a further specific period, if deemed fit as per exigencies of work, by issue of a specific order.
>
> (ii) The appointee will have to perform any of the jobs of unskilled category which may be assigned to him from time to time.

If the above terms and conditions are acceptable to Shri _____, he should send his acceptance in the enclosed proforma and report on duty immediately.

PROJECT MANAGER"

> Relying upon the above appointment order, Mr. V.R. Reddy submitted that the appointments were purely on contingent/temporary basis and the contract of employment will terminate on the completion of the project work and, therefore, they are not entitled for regularization. He invited our attention to the Minutes of the Meeting held on 25.9.1979 in the Chamber of the Chairman-cum-Managing Director between Management of MECL and MEC Employees Union and the decision taken on regularization.
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> The relevant paragraph reads as under:
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> "Regularization Regarding regularization, a committee was appointed duly to assess jobs of continuous nature on which the representatives of the MECEU were also represented. The report of this committee has been received, recently, and its recommendations will be put up to the Board of Directors in its next meeting. Every efforts will be made to obtain the permission of the Director General, Employment & training to fill the vacancies, which will thus be available, out of the contingent workmen based on their seniority and their sustainability. The work of regularization of such contingent workers will be completed within a period of four months from the

date of the approval of the Board of Directors."

He drew our attention to the Abstract of Standing Order which deals with permanent employees and contingent/temporary workmen and the probationers etc. Our attention was drawn to clause (b) of paragraph 1 of the Standing Order which defines a "contingent/temporary" workman as one who has been engaged on work which is of an essentially temporary nature likely to be finished within a limited period.

Mr. V.R. Reddy invited our attention to the affidavit dated 12.5.2006 filed on behalf of the Corporation. Paragraph 2 of the affidavit reads as under:

> "In compliance of the directions of this Court the respondent Corporation has been inviting the ex-contingent workmen for engaging them whenever work was available and the respondent is continuing to do so. For this purpose the respondent Corporation has been issuing notices through publications in the Newspapers and also by furnishing the necessary information to the petitioner Union for the benefit of the workers.
>
> But in spite of the wide publicity given in this matter incurring heavy expenses, the response from the workmen was very scant as only very few persons were willing to work at places where work was available. A statement containing the details of projects where the temporary nature of work arose and the number of workmen required and the publications made in the Newspapers regarding the said work is annexed as annexure-R1(A)."

He further submitted that since the Constitution Bench has pronounced the judgment on 10.4.2006, there is no infirmity in the impugned judgment keeping in view the judgment of the Constitution Bench and hence these appeals are liable to be dismissed.

He also relied on paragraph 12 of the judgment of the Constitution Bench which reads as under:

> "In spite of this scheme, there may be occasions when the sovereign State or its instrumentalities will have to employ persons, in posts which are temporary, on daily wages, as additional hands or taking them in without following the required procedure, to discharge the duties in respect of the posts that are sanctioned and that are required to be filled in terms of the relevant procedure established by the Constitution or for work in temporary posts or projects that are not needed permanently. This right of the Union or of the State Government cannot but be recognized and there is nothing in the Constitution which prohibits such engaging of persons temporarily or on daily wages, to meet the needs of the situation. But the fact that such engagements are resorted to, cannot be used to defeat the very scheme of public employment. Nor can a court say that the Union or the State Governments do not have the right to engage persons in various capacities for a duration or until the work in a particular project is completed. Once this right of the Government is

> recognized and the mandate of the constitutional requirement for public employment is respected, there cannot be much difficulty in coming to the conclusion that it is ordinarily not proper for courts whether acting under Article 226 of the Constitution or under Article 32 of the Constitution, to direct absorption in permanent employment of those who have been engaged without following a due process of selection as envisaged by the constitutional scheme."

Placing strong reliance on the above paragraph, Mr. V.R. Reddy submitted that Courts whether acting under Art. 226 of the Constitution or under Art. 32 of the Constitution, can direct the absorption in permanent employment of those who have been engaged without following a due process of selection as envisaged by the constitutional scheme, cannot at all be countenanced.

Mr. V. R. Reddy submitted that the Corporation was established in the year 1972 and has been engaged in exploration of mineral resources of the country and for this purpose they engaged workmen and that the activities of the Corporation carried on at various places from time to time and the project established for this work are of temporary nature and as soon as the work is over, the establishment stands closed. It was further argued that the work extracted by the respondent-Corporation is primarily on behalf of the Government of India and other Public Sector Undertakings of Central and State Government and the respondent-Corporation has no work of its own except the work that is assigned to them by various organizations. And that after the exploration work is carried out by the Corporation, further development and project work is taken over by the Government or Government company concerned and the duties and responsibilities of the Corporation end with the submission of the detailed exploration report that may be used by the development agency. He further submitted that the persons employed in the project/temporary establishment are employed mainly for the said project temporarily on contingent/temporary basis and their contract of employment will terminate/come to an end on completion of the project work and that the Corporation has specifically instructed all concerned that all appointments has to be made purely on contingent/temporary basis duly accepted by the Head Office and appointment is made on such terms. Arguing further, Mr. V.R. Reddy submitted that it is the usual practice of the Corporation to employ persons temporarily for project concerned and as soon as the project comes to an end, their services will automatically come to an end. He also invited our attention to the 139th Meeting of the Board of Directors held on 31.12.1998 and the decision taken thereon. Mr. V.R. Reddy submitted that the question of compassionate appointment does not arise because the answering respondent has no post available, neither they have financial resources to employ them. Concluding his arguments, Mr. V.R. Reddy submitted that the award of the Tribunal is not only perverse but without considering material facts and considering irrelevant and impermissible matter and the High Court had correctly exercised the jurisdiction vested in it and this Court should ensure that the Tribunal acts within its jurisdiction and in accordance with law. He further submitted that the High Court has not committed any error of jurisdiction in interfering with the award and, therefore, no interference is called for.

Mr. V.A. Bobde, learned senior counsel appearing for the appellant-Union, at the time of reply to the arguments made by Mr. V.R. Reddy, learned counsel for the respondent-Corporation, invited our attention to some documents which are relevant for the purpose of considering the claim of

regularization of the workmen. He invited our attention to proceeding No.2 (76)/Pers dated 9.8.1990 which shows that one Tika Ram Mahato was interviewed for the post of D.T. IV. Candidates were requested for written test/personal interview at the Corporation's office at Ranchi along with the documents in original and photostat copies thereof etc. Another proceeding of the same date was also for an interview for the post of D.T. IV. As a sample, he drew our attention to the statement of E.P.F. Account for the year 1982-83 of Tika Ram Mahato which furnishes the details of the member's contribution for the E.P.F. account. A sample wage slip was also brought to our notice. It relates to the employee, Tika Ram Mahato mentioning the details in regard to the wages, rates of wages payable, gross wages payable, deduction, if any, and actual wages paid. This document contains the signature of the employee and also of the Project Manager of the Corporation. Our attention was also drawn to the Release Order dated 13.10.1990 by the Corporation. Certain skilled workers were released from Ardhagram Project to R. East project which contains the leave details of the workmen. The Assistant Manager, Area-III Calcutta was requested to remit the fund for Muster roll to the Project Manager, MECL R. East, Project for the above contingent workers and that the Senior Material Officer, MECL Calcutta was requested to send their shoes, Rain Coat and Gumboot etc. to R.East Project. The said Release Order further stated that the daily wages of the workmen have been paid up to 10.10.1990 and that the festival advance has been given to the persons (whose names have been mentioned in the Release Order) in the month of September, 1990 and no deduction has been made from their salary. Another Office Order bearing No. 441/3:29/ADM/Cal-08 dated 22.4.1988 was brought to our notice which says that in terms of the Central Headquarters, Nagpur, Office Order No. 31/C/Pers/CAD.79 dated 17.6.85, the following contingent workers of Calcutta area who have completed four years of continuous service in the present wage scale have been re-categorised to the next higher wage scale w.e.f. 1.4.1988 and that the wages on re-categorisation will be fixed under normal Rules. This Office Order was issued with the approval of the Area Manager, Calcutta. The said Office Order gives the names of 15 skilled workers and date from which they are due to be re-categorised and the wage scale in which area they are placed and the name of the Project etc. Certain sample orders were also placed before us at the time of hearing. One sample order is issued by the Mineral Exploration Corporation Ltd. (a Government of India Enterprise) for Kanhan Project dated 5.1.1984 by which two skilled operators and one un-skilled worker was transferred from Damua to Tansi etc. The transfer of one K.G. Simon, unskilled worker was made on request and no separate accommodation will be provided to him in the camp Tandsi.

Mr. V.A. Bobde also placed before us few appointment orders available at pages 247, 248 and 249 of Vol.II of appeal paper book. The appointment orders state that the appointment will be purely on contingent/temporary basis and the contract of employment will terminate on 19.4.1988 or completion of work whichever is earlier. The contract of employment can be renewed for a further specific period, if deemed fit as per exigencies of work, by issue of a specific order and that the appointee will have to perform any of the jobs or skilled/unskilled category which may be assigned to them from time to time.

It is stated in the appointment order dated 3.7.1985 that the services of Shri Nand Kishore s/o Sh. Shyam Lal in the Corporation, Bikaner Lignite Project are purely temporary and his term of service is up to project life or till such time he is replaced by Regular/Pre'79 workers or any communication,

on the subject, received from CHQ whichever is earlier.

We may also usefully refer to the findings rendered by the Tribunal on the basis of the facts analysed from several affidavits filed before it, which are as under:

> "(A) The Temporary employees have been working in Corporation for many years. Even some employees have still been working since the year 1979.
>
> (B) Those employees were transferred from one place to another during that period.
>
> (C) The temporary employees were promoted.
>
> (D) Regular pay scale was not given to those temporary employees, but they were given salary equal to daily wagers.
>
> (E) Those temporary employees are not been given other allowances and facilities of leave.
>
> (F) The amount of Provident Fund was deducted from the salary of those temporary employees.
>
> (G) The posts, on which temporary employees were kept, were given different names by the Management.
>
> (H) Old temporary employees are removed from services without giving any notice or without paying any compensation.
>
> (I) Those employees are not given increments."

It is thus seen that the nature of work done by the Management is that they use work to explore the minerals in different parts of the country after taking over any project. According to the report of the year 1995-1996, the Corporation had 50 projects. The Corporation is permanent and it has been doing the work continuously. When one project is completed, then work starts in another project. It does not appear that the work of the Corporation would come to an end.

Ample material was placed before us to show that the temporary/contingent employees have been doing the work of permanent nature and the temporary employees are required to do work which was used to be done by skilled employees. The Annual Report of the Corporation for the year 1995-96 was also considered by the Tribunal. It appears from the Annual Report and the Magazine of the Corporation that the Corporation has sufficient work and the financial condition of the Corporation is also satisfactory.

The Respondent is an industry governed by the provisions of Industrial Disputes Act, 1947 as well as the provisions of the Industrial Employment Standing Orders Act, 1946. The Standing Orders

defined temporary and casual employees as under:-

> A "TEMPORARY" WORKMAN IS A WORKMAN WHO HAS BEEN ENGAGED FOR WORK WHICH IS OF AN ESSENTIALLY TEMPORARY NATURE LIKELY TO BE FINISHED WITHIN A LIMITED PERIOD' `A "CASUAL" WORKMAN IS A WOKRMAN WHOSE EMPLOYMENT IS OF CASUAL LABOUR' Therefore, it will be clear that, the employees engaged and continued for years together cannot be termed as temporary or casuals.
>
> The respondent-management itself effected transfer of employees from one project to another and granted them benefit e.g. T.A., D.A. etc. The term contingent employee is totally unknown to Industrial Law. To deny the benefits available to regular employees, certain employees are termed as contingent workers. Once an employee completes 240 days, he is deemed to be a permanent employee. The term contingent employee is not included in Standing Orders.
>
> Usual practice of the Corporation has been to keep contingent workmen for long duration of time and offering regular appointment periodically which abruptly had stopped due to unfair attitude of the Management. Reduction in work leading to poor physical and financial performance has been a result of incompetent and poor Management which cannot be allowed to play with the future of thousands of employees and their families.
>
> The present reference was made in January, 1993. The employees working in the Corporation, it was submitted, used to do work far away from civilization and facilities and they did not get amenities with regard to the health and residence although such facilities are available to the permanent workmen doing similar work. The workmen lived away from their families while working on a project and faced all types of hardships.
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> It shall be proper to regularize the services of the workmen who have worked for several years. However, the workmen in order to succeed will have to substantiate their claim as per the established principles of law. We feel it just and proper to issue the following directions to the Tribunal which is directed to consider the following directions and pass appropriate orders after affording opportunities to both the parties:
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> 1. The Tribunal is directed to again scrutinize all the records already placed by the appellant-Union and also the records placed by the Management and discuss and deliberate with all the parties and ultimately arrive at a conclusion in regard to the genuineness and authenticity of each and every claimant for regularization. This exercise shall be done within nine months from the date of receipt of this judgment.

2. Subject to the outcome of the fresh enquiry of the award, the respondent-Corporation should absorb them permanently and regularize their services, the persons to be so appointed being limited to the quantum of work which may become available to them on a perennial basis.

3. The respondent-Corporation may absorb on permanent basis only such of those workmen who have not completed the age of superannuation.

4. The respondent-Corporation are not required to absorb on permanent basis such of the workmen who are found medically unfit for such employment.

5. The absorption of the eligible workmen on a regular and permanent basis by the Corporation does not disable the Corporation from utilizing their services for any other manual work for the Corporation upon its needs.

6. In the matter of absorption, the persons who have worked for longer period as contingent workmen/ad hoc/temporary shall be preferred to those who have to be in shorter period of work.

7. The workman should have worked for more than 240 days in a year.

The conduct and behaviour of the workman should be good.

We, therefore, direct the Tribunal to decide the claim of the workmen of the Union strictly in accordance with and in compliance with all the directions given in the judgment by the Constitution Bench in the case of Secretary, State of Karnataka & Ors. v. Umadevi(3) & Ors., (supra) and in particular, paragraphs 53 and 12 relied on by the learned senior counsel appearing for the Union. The Tribunal is directed to dispose off the matter afresh within 9 months from the date of receipt of this judgment without being influenced by any of the observations made by us in this judgment. Both the parties are at liberty to submit and furnish the details in regard to the names of the workmen, nature of the work, pay scales and the wages drawn by them from time to time and the transfers of the workmen made from time to time, from place to place and other necessary and requisite details. The above details shall be submitted within two months from the date of the receipt of this judgment before the Tribunal.

Till the matter is finally adjudicated by the Tribunal, the interim order passed by this Court on 3.5.1999 shall be in operation.

With the aforesaid directions, the appeals are disposed of. However, there shall be no order as to costs.