

INTERNATIONAL AIRPORT AUTHORITY
EMPLOYEES UNION AND ANR.

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v.

INTERNATIONAL AIRPORTS AUTHORITY OF INDIA & ORS.

DECEMBER 8, 2000

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[S. RAJENDRA BABU AND S.N. VARIAVA, JJ.]

Contract Labour :

Contract Labour (Abolition & Regulation) Act, 1970—Applicants working as sweepers in the International Airport and National Airport claiming regularisation in service inasmuch as the contract labour system had been abolished—Respondents objecting on the ground that the notification under the Contract Labour (Abolition & Regulation) Act covers only the sweepers employed in respect of buildings owned or occupied by the establishment and that the parking areas of the Airports do not form part of the building—Tenability of—Held, it cannot be said that car parking is not a part of the building as building in its ordinary sense would include appurtenances which form thereof -Applicants entitled to be regularised in service.

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These applications were made by sweepers working in the car parks in the International Airport and National Airport for a declaration that they were also entitled to be regularised in service on the abolition of the contract labour system.

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On behalf of the respondents, it was contended that these applicants were sweepers employed in the parking areas of the Airports which did not form part of the building; that the notification issued under the Contract Labour (Abolition & Regulation) Act, 1970 did not cover such employees inasmuch as the said notification only prohibited employment of contract labour for sweeping, cleaning, dusting and washing of building owned or occupied by the establishment; that the parking areas were allotted to different contractors who were obliged to keep areas clean and the expenditure in regard to the same had to be borne by the licensee.

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Allowing the applications, the Court

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A HELD : It is difficult to conceive of an airport being functional without a car park and that the car park is not a part of the building. The Airport includes not only landing and taking off areas for the aircraft, the run ways and aircraft maintenance areas, but also passenger facilities. Passenger facilities would certainly include car parking and it cannot be said that car parking is not a part of the building. Building in its ordinary sense would include appurtenances which form thereof. Therefore, the notification issued under the Contract Labour (Abolition & Regulation) Act, 1970 which covers the sweepers employed in respect of buildings owned or occupied by the establishment, will also apply to the sweepers working in the car parks in the International Airport and National Airport. [477-C, D, F]

C *Air India Statutory Corporation etc. v. United Labour Union & Ors. etc.*, (1996) 9 SCALE 70 and *Masih Charan & Ors. v. Union of India & Ors.*, Writ Petition (C) No. 219 of 1995 decided by Supreme Court on 10.3.1997, held applicable.

D CIVIL APPELLATE JURISDICTION :

I.A. Nos. 7-9 of 1999.

IN

Civil Appeal No. 2987-2989 of 1997.

E From the Judgment and Order dated 27.3.96 of the Bombay High Court in W.P. Nos. 1494/89, 2365/90 and 504 of 1991.

Ms. Indira Jaisingh, Sr. Adv., Sanjay Parikh and P.R. Chandrachud for the Applicants/Appellants.

F R.N. Trivedi, Additional Solicitor General, Ms. Nina Gupta, Ms. Jaya Srivastava, Ms. Omika Dubey, Uday Gupta and Vineet Kumar for the Respondents.

The Judgment of the Court was delivered by

G **RAJENDRA BABU, J.** In these matters we are concerned with I.A. Nos. 7-9 of 1999 in Civil Appeals Nos. 2987-2989 of 1997. In these applications common relief sought for by the applicants is that they are also covered by the judgment dated 06.12.1996 and the consequent orders made on 11.04.1997 passed in these appeals. The workmen in respect of whom these applications are made are Sweepers in the Parking Areas in the International Airport and

H National Airport. Civil Appeals Nos. 2987-2989 of 1997 were disposed of on

11.4.1997 holding that on the abolition of the contract labour system Sweepers in such Airports are entitled to be regularised in service as indicated therein. The cause for these applications is that the respondents are contesting the entitlement of the applicants for regularisation in service. The stand of the respondents is that these applicants are Sweepers employed in the parking areas of the Airports which does not form part of the building and the notification dated December 9, 1976 does not cover such employees inasmuch as the said notification has prohibited employment of contract labour for sweeping, cleaning, dusting and watching of building owned or occupied by the establishment. Further objection to the claim of the applicants is that the Parking Areas are allotted to different contractors who are obliged to keep areas clean.

The Sweepers with whom we are concerned in these interlocutory applications work in the car parks in the Santacruz and Sahar Airports at Mumbai and they are six in number. It is difficult to conceive of the airport being functional without a car park and that the car park is not a part of the building. The Airport includes not only landing and taking off areas for the aircrafts, the run ways and aircraft maintenance areas, but also passenger facilities. Passenger facilities would certainly include car parking and it cannot be said that car parking is not a part of the building. Building in its ordinary sense would include appurtenances which form thereof unless it be that expression building is to be understood as was done by Merchant of Venice with reference to pound of flesh. Therefore, we cannot agree with the stand of the respondents.

Next objection is that there is an agreement with the contractors who are to maintain the car parking areas and they have an obligation to maintain proper cleanliness in the car parking areas and the expenditure in regard to the same will have to be borne by the licensee. Inasmuch as the notification issued under the Contract Labour (Abolition & Regulation) Act, 1970 covers the Sweepers employed in respect of buildings owned or occupied by the establishment, it is unnecessary to examine this aspect of the matter. Inevitable conclusion is that the judgment rendered in Civil Appeals Nos. 2987-2989 of 1997 following the decisions in *Air India Statutory Corporation etc. v. United Labour Union & Ors., etc.*, (1996) 9 SCALE 70, and *Masih Charan & Ors. v. Union of India & Ors.* in Writ Petition (C) No. 219 of 1995 dated March 10, 1997, is applicable to these workmen also.

We clarify that position and allow the applications accordingly.

M.P.

I.As. allowed. H