2020 INSC 598

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3489 OF 2020
[Arising out of SLP (C) No. 95 of 2020]

Rajasthan State Road Development and
Construction Corporation Ltd. .. Appellant

Versus

Piyush Kant Sharma & Ors. .. Respondents

O R D E R

M. R. Shah, J.

Leave granted.

2. Feeling aggrieved and dissatisfied with the impugned interim Order dated 23.09.2019 passed by the High Court of Judicature for Rajasthan at Jaipur in S.B. Civil Writ Petition No. 1924 of 2019, the original respondent - Rajasthan State Road Development and Construction Corporation Ltd. has preferred the present appeal.

3. That the respondent No. 1 herein was appointed as Computer Operator on contractual basis. Respondent No. 1 – original

petitioner filed the writ petition before the High Court for grant of regular pay-scale and to regularize his services on the ground that he is serving the appellant Corporation for the last three years. It was the specific case on behalf of the appellant Corporation that respondent No. 1 was never appointed by the appellant Corporation and there was no employer-employee relationship between respondent No. 1 and the appellant Corporation. It was the specific case on behalf of the appellant Corporation that the original writ petitioner was hired through one M/s Sahara Supreme Security Service, Jaipur. It was also the case on behalf of the appellant Corporation that even there was no regular sanctioned post of Computer Operator existed in the appellant Corporation. That, during the pendency of the aforesaid writ petition, another e-tender was issued by the appellant Corporation for hiring the Computer Operators etc. and the contract was awarded to one firm, namely, M/s Rakshak Security (P) Ltd. for providing Computer Operators and other posts for a period of 12 months. That, thereafter, by the impugned interim order dated 23.09.2019, the High Court has

restrained the appellant Corporation from appointing new set of contractual employees in place of the original writ petitioner.

4. Feeling aggrieved and dissatisfied with the impugned interim order passed by the High Court, the original respondent No. 1 – Corporation has preferred the present appeal.

5. We have heard the learned counsel appearing on behalf of the respective parties at length.

5.1 Learned counsel appearing on behalf of the original writ petitioner has submitted that considering the fact that other similarly situated Computer Operators were continued and there was a requirement of Computer Operator and, therefore, the High Court is justified in passing the impugned interim order.

5.2 On the other hand, it is submitted by the learned counsel appearing on behalf of the appellant Corporation that, as such, no reasons have been assigned by the High Court while passing the impugned interim order. It is submitted that in fact the original writ petitioner was a contractor's employee and there was no employer-employee relationship between the original writ petitioner and the appellant Corporation. It is submitted that even there is no

regular sanctioned post of Computer Operator in the appellant Corporation and, therefore, the appellant Corporation gave the work order to the contractor for providing the services of the Computer Operator etc., the High Court ought not to have passed such an interim order.

6. Having heard the learned counsel appearing on behalf of the respective parties, we are of the opinion that the High Court has committed a grave error in passing such an interim order restraining the appellant Corporation from appointing new set of contractual employees in place of original writ petitioners. No reasons, whatsoever have been assigned by the High Court while passing the impugned interim order. The High Court has failed to appreciate and consider the fact that according to the appellant Corporation, there was no regular sanctioned post of Computer Operator in the appellant Corporation and that there was no employer-employee relationship between the original writ petitioner and the appellant Corporation and that the original writ petitioner was a employee appointed by the contractor on contractual basis and worked with the appellant Corporation on contractual basis.

As the writ petition is pending before the High Court, we refrain ourselves from making any further observations on merits. However, we are of the opinion that in the facts and circumstances of the case narrated hereinabove, the High Court ought not to have passed such an interim order. Under the circumstances, the impugned interim order passed by the High Court requires to be quashed and set aside.

7. In view of the above and for the reasons stated above, the present appeal is allowed and the impugned interim order passed by the High Court in S.B. Civil Writ Petition No. 1924 of 2019 restraining the appellant Corporation from appointing new set of contractual employees in place of the original writ petitioners is hereby quashed and set aside. No costs.

.....J.
(ASHOK BHUSHAN)

.....J.
(R. SUBHASH REDDY)

.....J.
(M. R. SHAH)

New Delhi,
October 15, 2020