

ORDER BELOW EXH.U-28
IN COMPLAINT (ULP) No.60 OF 2016

- 1) This complaint is filed under Items-9 & 10 of Sch-IV of the MRTU & PULP Act, 1971 requesting to grant permanency benefits to all the complainants. In the complaint they have filed present application for amendment.
- 2) As per their contention the respondents are depriving the benefits of permanency. Also the respondent is not giving equal wages for equal work. Further, though there are averments of permanency but some facts are missing in the complaint. Therefore, it is necessary to make amendment in the complaint. The complainants want to insert para Nos.aa and 3(bb) in the main complaint. Also, they want to add prayer clause D, DD & DDD.
- 3) As per contention of complainants the security guards are promoted to the post of peon from last three years. Therefore, there are vacant posts of security guards. All the complainants are doing similar type of work. Further, the respondent No.2 is co-operative society but it is not registered under CLARA Act. Also it is not registered with EPF and ESIC authorities. Therefore, the respondent has no authority to supply labourers to the respondent No.1. Further, the respondent No.1 is only employer regarding complainants. The respondent No.1 is supervising their work. Hence, it is necessary to make amendment and to insert additional prayers. Therefore, requested to allow the amendment application.

4) The respondent has filed say at Exh.C-15 and denied all allegations in the application. Further, application is filed at belated stage. There is no proper and just ground to allow the application. Due to possibility of granting interim relief the present application is filed. Also there is no employer-employee relationship. Further, the complainants are bringing new story on record. It is not permissible. Hence, requested to reject the application.

5) From the pleadings of the parties, following Points arose for my consideration and I have recorded findings with reasons thereon as under :-

<u>Sr.No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether it is just and proper to allow the application ?	Yes
2)	What Order ?	As per final Order.

REASONS

6) **As to Point No.1** :-

In support of contention both the counsels have argued before me. From Exh.U-1 it appears that, the complainants made some averments in respect of not giving permanency benefits. Further, there are averments that the respondent is not paying equal wages for equal work. Further, it is mentioned that, they are working with respondent No.1 since 2009. But, since last 3-4 years the respondent No.1 has shown them working through contractor respondent No.2. Hence, the counsel has submitted that, it is necessary to brought on record said fact.

7) On the contrary the counsel for respondent has submitted that, at the time of filing complaint the complainants are having knowledge that, they are working through contractor i.e. respondent No.2. Therefore, respondent No.2 is made as a party. Further, the complainants themselves have produced some documents showing that they are working through contractor. Only question is in respect whether the contractor is registered under CLRA Act or not? According to me if the respondent No.2 is not registered under CLRA Act then it might be entitled for penal action. Alongwith list Exh.U-10 at page No.26 the complainants have produced one letter dated 1-12-2015. In the letter it is mentioned that, they are working through respondent No.2 in respondent No.1 as a security guard. Further, respondent No.2 is not giving wages as per Minimum Wages Act. Also their wages are not increased since last three years. Relying on this letter the counsel for respondent has submitted that, it is not necessary to allow the amendment application.

8) In the written statement filed by respondent No.1 they have denied relationship with complainants. Therefore, it is necessary to decide relationship by filing preliminary issue. Further, it appears that by filing amendment application the complainants are interested to insert some new facts. But according to me it is in continuation with their pleadings in the complaint. Therefore, the complainants are not bringing totally new story. Further, there are controversy in between the complainants and respondents. As per contention of complainants they are working through respondent No.1. But, as per contention of respondent No.1 the complainants are working through labour contractor i.e. respondent No.2. According to me, it is necessary to decide both contents on merit. Therefore, it is proper to allow the

application and decide the dispute in between the parties in finality.

Therefore, I proceed to pass following order :-

Order

- (a) Application Exh.U-28 is allowed.
- (b) Complainants are directed to make amendment within 15 days.

Sd/-

(R.S. Ghatpande)
Member,

Industrial Court, Aurangabad

Date: 03-01-2019
sdk/-