

**GOVERNMENT OF INDIA
LABOUR AND EMPLOYMENT
LOK SABHA**

UNSTARRED QUESTION NO:1735
ANSWERED ON:05.12.2005
CONTRACT LABOUR REGULATION AND ABOLITION ACT , 1970
Athawale Shri Ramdas

Will the Minister of LABOUR AND EMPLOYMENT be pleased to state:

- (a) whether the Government has set up a high level committee of industrialists to discuss the issue related to the Contract Labour (Regulation and Abolition) Act, 1970;
- (b) if so, the details thereof;
- (c) whether the above committee has submitted its report;
- (d) if so, the details thereof;
- (e) whether the Government are aware of the judgement given by the Hon'ble Supreme Court in this regard wherein the apex court has directed that the safaiwalas/loaders working temporarily can be made permanent where there is regular work for them;
- (f) if so, the reaction of the Government thereto; and
- (g) the steps being taken by the Government in accordance with this judgement?

Answer

MINISTER OF LABOUR AND EMPLOYMENT (SHRI K. CHANDRASEKHAR RAO)

(a) to (g): A statement is annexed.

STATEMENT REFERRED TO IN REPLY TO LOK SABHA UNSTARRED QUESTION NO.1735 BY SHRI RAMDAS ATHAWALE REGARDING CONTRACT LABOUR (REGULATION & ABOLITION) ACT, 1970 FOR ANSWER ON 5.12.2005

(a) to (d) : Government had appointed a Council on Trade & Industry comprising of prominent industrialists in the country in August 1998. On 11.12.99 eight Special Subject Groups from among the members of the Council were constituted. One of the Subject Groups comprising S/Shri Nusli Wadia and Rattan Tata was set up for review of regulations & procedures to unshackle the Indian Industry/recommendation of measures for reviewing traditional industry. On the issue relating to contract labour, the report submitted by this Subject Group recommended that the Contract Labour (Regulation & Abolition) Act, 1970 should be amended suitably to provide for regulation of contract labour in various industries to non-core activities of a company and not abolition. In other words, contract labour could not be utilized in the concerned company's continuous manufacturing processes.

(e) to (g): No, Sir. However two landmark judgements on contract labour were passed by the Hon'ble Supreme Court in the years 1996 and 2001. In the matter of Air India Statutory Corporation Vs United Labour Union & Others, the Hon'ble Supreme Court ruled that on abolition of contract labour system by necessary implication, the principal employer is under statutory obligation to absorb the contract labour. This case arose out of the notification issued by the Government in 1976 prohibiting employment of contract labour in the jobs of sweeping, cleaning etc. in establishments coming under the Central Sphere.

A five judge Constitution Bench of the Supreme Court in the matter of Steel Authority of India Ltd. Vs Others Vs National Union of Waterfront Workers and Others in their judgement dated 30.8.2001, however, overruled the judgement in Air India case (Supra) prospectively. The court ruled that neither Section 10 of the Contract Labour Act nor any other provision in the Act, whether expressly or by necessary implication provides for automatic absorption of contract labour, on issuing a prohibition notification under Section 10 of the said Act. Consequently the Principal Employer cannot be required to order absorption of the contract labour working in the concerned establishment. If the contract is not genuine or a mere camouflage the so called contract labour will have to be treated as employees of the Principal Employer and the Industrial Adjudicator, in an industrial dispute raised before it, shall direct the principal employer to regularise the services of the contract labour in the concerned establishment.

If the contract is found to be genuine and prohibition notification has been issued by the appropriate government and the principal employer intends to employ regular workmen in the prohibited category, he shall give preference to erstwhile contract labour by relaxing the conditions as to age and qualifications other than technical qualifications. The aforesaid notification issued in 1976 was quashed. This judgment of the Supreme Court is the law of the land and wherever prohibition of employment of contract labour has been issued by the appropriate Government, the concerned establishment has to follow this ruling strictly.