

**BEFORE THE DEPUTY LABOUR COMMISSIONER**

**DIVISION 4, BANGALORE**

**Dispute No. 93 /2017-18**

**Between:**

Garment and Textile Workers Union  
Having its registered office at 17/1, First floor  
New Guddadahalli, Mysore road,  
Bangalore - 560 026

Represented by its President

First Party

**AND:**

1. Avery Dennison  
Plot No. 6B 1<sup>st</sup> main,  
Phase 1, KIADB layout,  
-Peenya Industrial Area,  
Bengaluru - 560058  
Represented by its Director, Human resource

2. Sri Udyog Enterprises  
No. 252, 4<sup>th</sup> Main, 2<sup>nd</sup> Block,  
Opp.Dr.Raj Kumar Memorial,  
Nandini Layout,  
Bengaluru - 560 090

3. Adecco India Pvt Ltd.,  
No 7A, 2<sup>nd</sup> floor, SLVP complex,  
2<sup>nd</sup> cross road, Chikkamaranahalli,  
New BEL Road, Bangalore - 560 094

Second Party

**PETITION UNDER SECTION 12 READ WITH SECTION 2(k)  
OF THE INDUSTRIAL DISPUTES ACT IN REGARD TO  
SEEKING REGULARIZATION OF THE CONTRACT WORKERS  
BY THE MANAGEMENT OF AVERY DENNISON AND TO  
DECLARE THE CONTRACT BETWEEN AVERY DENNISON  
(INDIA) PVT.LTD AND SRI UDYOG ENTERPRISES AND  
ADECCO (INDIA) PVT.LTD AS ILLEGAL APART FROM  
BEING SHAM AND CAMOUFLAGE**

The First Party above named states as follows:

ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ಉಪ  
ನಂ. 17/1,  
ಮೈಸೂರು ರಸ್ತೆ, ಗುಡ್ಡಾಹಳ್ಳಿ, ಬೆಂಗಳೂರು - 560 026



1. The First Party Union is a body of workmen registered under the Trade Union Act, 1926 and has membership in various garment and textile factories situated in and around Bengaluru & other parts of the State. The said Union has been working for garment and textile workers and also against exploitative practices carried out by the management against the workers. The Union has opposed the illegal practice carried out by the Management by employing poor and ignorant workmen under sham and bogus contracts for a period of at least one year extending over 12 years with the sole intention of denying and depriving them of their legitimate rights of seeking permanency, equal wage for equal work and also other benefits and protection which they are entitled to under the law. The Union has been espousing the cause of the workers by raising disputes relating to contract labour, minimum wages, etc., prevalent in various garment industries and one such illegal practice is perpetuated in the present second party establishment.

2. The Second Party No. 1 is a multi-national company, which is engaged in manufacturing printing materials, designing, adhesive technologies, display graphics, etc.,. The Second Party No. 1 has two units situated at Bangalore, where it employs over 900 workers. It is submitted that the second party plant at Bangalore, has been making huge profits and has made tremendous progress in expanding its business and is earning good profits. This was possible only on account of the hard, sincere and dedicated work of the workmen employed in the industry.



3. The Second Party No. 1 has totally employs 900 workmen, out of which around 310 workmen are engaged by them through the alleged Second Party No. 2 & 3 contractors. It is submitted that these workers were initially appointed by the Second Party No. 1 directly, and thereafter the Second Party No.1 has systematically introduced the alleged Second Party No. 2 & 3 as a contractor, and thereafter the workers who were already in service with the second Party No.1 started treating them as contract workmen, although they work directly under the control and supervision of the Second Party No. 1. The Second Party No. 2 & 3 acts as a camouflage and a sham contractor, but in reality they are just mere name-lenders, however the said contractors were allegedly employed by the Second Party No. 1 to deny the workers of their legitimate rights and dues in the second party No.1. It is submitted that the Second Party No. 1 issues appointment letters, allots the work, maintain attendance records, sanction leave, decides on appraisals, takes disciplinary action against the workers and decides, evaluates and determines all other working conditions of service of all the workers. The said alleged contract workmen are called upon to do overtime as per the direction of the Second Party No. 1. The said workmen are transferred/shifted from one department to another by Second Party No. 1, however for the purpose of records, they were called as contract workers only with a view to deny legitimate rights of the workers and therefore it is required to lift the veil, so that the real employer can be seen.

4. It is submitted that false and sham records are being fabricated and built up by the Second Party No. 1 with the connivance of the second party No. 2 and 3, to camouflage the



direct employer and employee relationship between second party No.1 and the workers of the second party No.1, including the first party workers. Any such document will have to be treated as documents created and fabricated by them to circumvent statutory provisions, and therefore the said alleged documents cannot be relied upon by this Hon'ble Authority. It is pertinent to note that the workmen were not in a bargaining position and therefore the second party No.1 used to compel individual workmen to sign on certain documents and blank sheets of paper from time to time even without revealing the contents and hence the workers were totally unaware of the contents of the said alleged documents and the second party has not provided any copies of the same. The workmen's signatures were obtained under the threat of suspension and dismissal.

5. As detailed in the list annexed to this petition, the alleged contract workers have been employed by the Second Party No. 1 for the past 12 years. The said employees shown in the annexure were initially employed by the Second Party No. 1 itself, and gradually the second party No. 1 has brought the middlemen as contractors who are now the Second Party No. 2 & 3. The second party No.1 having employed the said workers for perennial and permanent nature of work and the workers having worked continuously for more than 12 years in the second party No.1 clearly goes to prove that the said workers had performed permanent and perennial nature of work in the second party No.1, which a necessary one and is one done throughout the year.



6. The workmen have been working with the Second Party No. 1 management ranging from 1 year upto 12 years. It is submitted that although the said workers are performing perennial and necessary work existed in the Second party throughout the year, however they have been falsely called as contract labourers by keeping them under such sham and bogus contracts by the Second Party No.1. The said action of the Second party No.1 amounts to an unfair labour practice and the said practice of the second party is prohibited under the Industrial Disputes Act, 1947. Pertinently, the baneful system of contract labour has also been frowned upon by the higher courts in its various judgments especially when the management employs workers on the false pretext of contract workers on permanent and perennial nature of work over years and perpetuate illegal practices. The economic exploitation of workmen in the guise of contract labour flies in the face of the Directive Principles of State Policy laid down in the Constitution of India.

7. It is submitted that the Hon'ble Supreme Court & the Hon'ble High Courts have come down heavily on the new technique of subterfuge that is being adopted by the employers in the recent years in order to deny the legal and statutory rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, even though actually they were employed by the principal employer himself, however only on all the records show that the said workers are contract workers. In the said circumstances, the Hon'ble Apex Courts have laid down in its various judgment that in order to see as to



whether the work discharged by the workers is of perennial nature of work, it is required to lift the veil, in order to protect the rights of the workers and also to provide them dignity of labour which is their fundamental labour rights. It is essential that the veil of 'contract' between the Second Party No. 1 2 & 3 is to be lifted to expose the sham contracts between the said second party No. 1 to 3 in order to confer protection of the fundamental labour rights to these workers who are in actual workers of the Second Party No. 1 but are allegedly shown on the payrolls of Second Party No. 2 & 3, to deprive and deny permanency to these workers.

8. Thus, it can be seen that the workmen are engaged on the job which is of perennial in nature however the second party No.1 denied the status of permanency to these workmen including other social security benefits. These workmen are being paid meager consolidated wages, even though the said workers are entitled to claim "equal pay for equal work" as that of permanent workmen. Thus, there is blatant discrimination and exploitation of these workmen by the Second Party No.1, on the pretext of the sham contract.

9. The Second Party No. 1 has interposed a so-called labour contractor, an artificial intermediary to deny these workmen of security of service and other benefits on par with the permanent employees. The sham contractor, is merely a name lender who has no role to play in so far as the workmen is concerned except to pay them wages with the intention to deny them their rightful dues. Hence, the arrangement with the alleged labour contractors is neither bonafide nor genuine and is intended to



hoodwink and deny workers of their legitimate dues & their legal rights. The Second Party No. 1 has employed these workmen under the sham contractor so as to exploit them for cheap labour, deny them security of service and prevent them from unionization.

10. The said alleged contract workers of the Second party No.1 had joined the union, Garment and Textile Workers Union on 1.9.2017, since which time the Union has been representing them to put forth their legitimate rights and also demand permanency and other benefits. Hence, they have *locus standi* to espouse the cause of the workers under Industrial Disputes Act, 1947.

11. It would be pertinent to mention that the Second Party No. 1 has been attempting to illegally terminate the services of some of these workmen who are actively involved and participating in the Union activities with a sole intention of creating fear in the minds of other workers and also preventing the other workmen from seeking their right to seek regularization of their services, and therefore the action of the second party is violative of provision of the Industrial Disputes Act and which also amounts to unfair labour practices.

12. It is submitted that the contract labour system perpetrated by the Second Parties is highly unjust, illegal, sham and a camouflage. The Second Party No. 1 has employed the workmen these workers on the guise of contract labourers which is nothing but "bonded labour system" with the sole intention of depriving them of their legitimate rights and also to avoid and evade



various benefits which they are entitled to under various other labour laws. All these workers have been working selflessly on meagre salary for all these years despite they have been continuously exploited by the second parties without any remorse. The second party cannot employ the said workers as contract labourers, especially when the work is of permanent and perennial in nature and the said action of the second party is also violative of Contract Labour (Regulation and Abolition) Act. Hence, the union has raised the above dispute seeking for conferment of regularization to the said workmen by the Second Party No.1 and also pay all consequential benefits which they are entitled to under the law. The Union also reserves its right to file its rejoinder pursuant to filing the objection statement by the management.

Wherefore, it is prayed that this Authority may be pleased to take up the matter in conciliation, direct the second party No. 1 to regularize the services of the workers, whose names are shown in the list annexed to this petition and also direct them to provide all the consequential benefits on par with the regular employees, as per the law, to meet the ends of natural justice and equity.

Bengaluru

Date : 28.10.2017

*Pratibha*

FIRST PARTY UNION

