

LOKPAL OF INDIA
Plot No.6, Institutional Area, Phase-II
Vasant Kunj, New Delhi - 110070

Complaint No. : 142/2024

Date : 13.08.2024

Coram : **Shri Justice A. M. Khanwilkar**
Chairperson

Shri Justice Sanjay Yadav
Judicial Member

Shri Sushil Chandra
Member

Shri Justice Ritu Raj Awasthi
Judicial Member

Shri Ajay Tirkey
Member

ORDER

1. The present complaint relates to allegations about the exploitation of labourers engaged in contract cleaning at Agra Cantt. Railway Station by the service provider M/s XXXX (name redacted for confidentiality) in connivance with the railway officials. The allegations made in the complaint in brief are as under:-



- (i) The service provider is not paying the minimum wages to the labourers according to monthly working days/attendance as per the Minimum Wages Act, 1948. The firm is treating them as bonded labour by not paying EPF, ESI and minimum wages and thereby exploiting them.
- (ii) As per the contract agreement between the service provider firm and the Railways, the cleaning work at Agra Cantt. Railway Station is to be accomplished by providing minimum 75 contractual labourers daily, but only 44-45 labourers are deputed on daily basis by the contractor. The contractor is fraudulently drawing the wages of 30 labourers to the tune of Rs.6 lakhs per month which amounts to nearly Rs.2 crore till date of complaint. The corrupt practice is going on in nexus with corrupt railway officials.
- (iii) The perusal of EPF passbook of contractual labourers show that 12% employees EPF contribution and 13% employers EPF contribution are not being deposited in the account of labourers.
- (iv) As per the Govt. directive, it is mandatory to issue ESI Card to the contractual labourers in order to facilitate them emergency health services, for this purpose, certain amount is deducted from the wages of the labourers and certain amount is deposited by the employer, but no ESI card has been provided to any labourer by the contractor till date.
- (v) The bill of the contractor shall be passed only after a scrutiny of details of wages, EPF and ESI contributions as well as attendance, etc., but this is not being done by the railway officials.
- (vi) The information sought under the RTI Act, 2005 has not been provided by the railway authorities. The matter raised before the DRM and the concerning railway authorities has not been responded till date.

2. The Full Bench after considering the allegations, as noted above, vide Order dated 10.07.2024 thought it prudent to first call for a status report from the CVO (Railway Board), Ministry of Railways within four



weeks and thereafter pass suitable order including as contemplated under Section 20(1) of the Lokpal & Lokayuktas Act, 2013.

3. The Deputy Director (Vigilance-2), Railways Board vide letter dated 07.08.2024 has forwarded the status report prepared under the signature of Principal Executive Director (Vigilance), Railway Board who is the Chief Vigilance Officer (CVO) of the Ministry of Railways.

4. The perusal of the above-mentioned status report indicates that the allegations made in the complaint have been duly considered by the concerned authority and specific findings on each and every allegation has been separately given along with the observations made thereunder.

5. According to the status report, the minimum wages as fixed by the Ministry of Labour & Employment, Govt. of India, from time to time, are being paid to the labourers. The contractor in his bill for the Month of January to March, 2024 has attached the 'Contractor Wage Report' of Indian Railways Shramik Kalyan Portal showing wages paid to the employed labourers. The deductions towards EPF and ESI are also indicated in the report. From the report, it is seen that minimum wages are being paid to the labourers for the number of days of actual working by them. Hence, the allegations made in this regard are not correct.



6. It is noted that at the time of submitting monthly bills, the service provider firm has also submitted the electronic challan showing deposit of 12% employees' contribution and 12% employer's contribution towards EPF/ESI payment. Similarly, along with monthly bills, the firm has also provided the electronic challan of ESI payments. Regarding ESI payments, it is observed that in the challan provided by the contractor firm, only contribution by employee has been shown whereas the employer's contribution towards ESI has not been provided. Also, the challan provided by the firm is for bulk posting of EPF/ESI contributions of nearly 2500 labourers deployed by it in different projects. Separate EPF/ESI record of labourers deployed for railway contract has not been provided by the firm. A sample check of the account of 15 labourers (for the months of May, 2024) shows that the entry in the EPF and ESI accounts matches with the details provided by the firm along with monthly bills. The bank transaction statement of certain labourers, as sample check, was also found to match with the account's details provided by the firm with its bills.

7. So far as the three labourers mentioned in the complaint, the bank account transactions of two labourers was examined and it was found that they have been paid wages of 24 days in a month as per their attendance. No payment has been made for the period of rest/absent. After due deductions of EPF and ESI contribution, remaining amount of daily wages



for the work days was deposited in the bank account of these labourers.

The bank account statement of the third labourer was not available.

8. The labourers were called for recording their statements, but only three labourers turned up for recording their statements who stated that wages are deposited in their account and no undue demands are made by the employer firm.

9. With regard to the allegations that less number of labourers are employed daily against the sanctioned strength whereas the wages, EPF and ESI of 75 labourers were drawn every month which amounts to corrupt practices, it has been noted that in the attendance register of January and February, 2024 provided by the concerned railways officials, names of 105 and 106 labourers were entered. The same number of labourers with same names were found in the attendance sheet submitted by the firm along with the wage bills. It is seen that monthly average labourers for the month of January, 2024 was 74.78 and for February, 2024 was 74.79, which is in accordance with the daily manpower of 75 as mentioned in the contract.

10. It has been noted in the status report that 12% contribution of employees in the EPF/EPS and 12% of employers' contribution, which is in consonance with the challan submitted by the contractor firm, have



been deposited in the accounts of the labourers. It has been noted that on scrutinizing of ESI account of 15 labourers, as sample, it has been found that employees' contribution of 0.75% is being deposited in the account but there is no entry of contribution from employer side. It is also noted in the status report that the contactor is submitting the bills month-wise giving the details of the amount of wages paid to the labourers along with the EPF and ESI since the commencement of work in February, 2021. All the documents submitted by the contractor firm are examined and forwarded to the Commercial Department of the DRM office where after further examination and signature by the concerned authority, the bills are passed for payment.

11. It is also submitted that the allegations of non-providing of information under the RTI Act, 2005 is not factually correct. The complaint received in this regard through Single Window Grievance Redressal Portal has been duly replied to the complainant.

12. We have given our thoughtful consideration to the allegations made in the complaint and the material on record including the observations/conclusions in the status report submitted by the CVO, Ministry of Railways and have come to the conclusion that there is no material evidence before us to come to *prima facie* satisfaction that the respondent public servants are involved in any commission of offence of



corruption within the meaning of the PC Act, 1988. We, therefore, do not find it to be a fit case to order Preliminary Inquiry under Section 20(1) of the Lokpal & Lokayuktas Act, 2013. The complaint needs to be closed being devoid of merit.

13. Accordingly, the complaint stands disposed of.

Sd/-
(Justice A.M. Khanwilkar)
Chairperson

Sd/-
(Justice Sanjay Yadav)
Judicial Member

Sd/-
(Sushil Chandra)
Member

Sd/-
(Justice Ritu Raj Awasthi)
Judicial Member

Sd/-
(Ajay Tirkey)
Member


(COURT MASTER)
LOKPAL OF INDIA

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