

**ORDER SHEET**  
**CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT,**  
**JABALPUR(MP)**

**CASE NO. CGIT/LC/R-55/2016**

*Anil Sen* **Vs. Brigadier, Mahar Regiment Centre & another**

Date of order of proceeding	Order or proceeding with signature of Presiding Officer	Signature of parties or pleaders where necessary
12-4-2022	<p>Matter Taken up.</p> <p>Shri Suyash Thakur, Counsel for the workman present.</p> <p>Miss. Kanak Geharwar, learned counsel for the Management present.</p> <p>Learned counsel for the workman pressed his application filed under Section 102 of the Indian Evidence Act and Section 151 of the Civil Procedure code along with affidavit and with a prayer to call upon the Respondent No.1 to lead evidence before applicant on the point asserted by Respondent No.1 that the applicant workman are in fact contract labour and not appointed /engaged by the management No.1.</p> <p>The management has preferred written reply dated 18-11-2021 along with affidavit.</p> <p>I have heard arguments of learned counsel from both the sides and have gone through the record.</p> <p>Learned Counsel for the workman has pressed that the controversy reveals around the fact that the workman are in fact engaged by Management No.1 Mahar Regiment Centre because the contract alleged is sham and bogus as they are contract labourers and employees of the Contractor. He submits that the burden to prove that the workman are in fact employees of contractor is on the management. Thereafter the burden will shift on the workman to prove that in fact the contractor was sham and camouflaged. Learned counsel has relied on decision of Hon'ble the Apex Court <b>Amar Chakravarty and Others Vs. Maruti Suzuki India Limited</b>(2010) 14 SCC 471, para 10 and 12 of the judgment and decision of Hon'ble High Court of M.P. in <b>Caparo Engineering India Ltd. Vs. Pradhanmantri</b></p>	

*File*

**Engineering Shramik Sanghthan** (2019) 1 M.P.L.J., para 13 and 30 of the judgment.

Learned counsel for the management does not dispute the burden but submits that the burden to prove its claim is on the workman because if no evidence is produced by any of the parties, in the case in hand, it is the claim of the workman that will fail, hence the workman has to first establish his claim.

Having considered the rival arguments, in the light of material on record, I am of the view that without getting proved the fact that the workman is a contract labour, the case of the workman that contract is in fact sham and camouflaged is not possible to be proved. Hence the interest of justice requires, in the case in hand to direct the Management to lead evidence first with respect to its claim on its case over the workman as the contract labor engaged by the contractor.

The application is allowed. Accordingly the management to prove evidence on the point that the workman is employee of contractor

List the case on 20-6-22 for evidence of the management.



(PRESIDING OFFICER)