

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.17473-78/2006**

% **Date of Decision: 02.05.2011**

Ms. Kiran Chawla & Ors. Petitioners

Through Mr. Prakash Gautam, Advocate

Versus

UOI & Anr. Respondents

Through Mr.H.K. Gangwani, Advocate

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioners have challenged the order dated 16th January, 2006, passed by the Central Administrative Tribunal, Principal bench in OA 2627/2004 titled as Kiran Chawla & Ors. Vs. Secretary, Ministry of Tourism and Anr., disposing of the original application with the directions to the respondents to call for the nomination through Staff

Selection Commission for appointment and the petitioners be called for as per the procedure laid down and the petitioners be permitted to file their application for participation in the examination with relaxation in age and till regular recruitment is made by a regular process of appointment, petitioners be allowed to continue on the same terms and conditions with payment of wages for the work done and in case of selection of petitioners they be permitted to continue on regular basis. The petitioners have also challenged the order dated 3rd July, 2006 dismissing the review application being RA No. 87/2006 by the Central Administrative Tribunal, Principal Bench.

2. Brief facts to comprehend the disputes are that the petitioners had been working as junior stenographers and Lower Division Clerks (LDCs) on *ad hoc* basis from 1993 to 1999, whereas Smt. Charu Arora had been working as data entry operator and they sought their continuation as a regular appointee in terms of OM dated 11th June, 2004.

3. The petitioners contended that they are working for a long period of time on *ad hoc* basis. It was averred by the petitioners that petitioner No. 1 by OM dated 3rd February, 1993 was informed that on the basis of Stenography test she is being appointed to the post of Junior Stenographer in the pay scale of Rs.1200-30-15-16-EB-40-20-40 plus usual allowances as admissible under rules in force from time to time.

The petitioner No. 1 contended that her name was sponsored by the Employment Exchange, Daryaganj, New Delhi for *ad hoc* appointment in the grade of Junior Stenographer against a regular vacancy. According to her, after her medical examination, since the date of appointment, 17th February, 1993, she has been continuing as Junior Stenographer on *ad hoc* basis with respondent No. 1 though she had been given technical breaks of one day each from time to time.

4. Regarding petitioner No. 2, it was contended that her name was sponsored by the Employment Exchange, New Delhi for the post of Junior Stenographer and she was called for stenography test on 26th June, 1995 and after medical examination, she was selected for the post of Junior Stenographer. By OM dated 12th July, 1995, petitioner No. 2 was offered the appointment of Junior Stenographer on *ad hoc* basis and since the date of her appointment, i.e., 17th July, 1995 she has been continuing as Junior Stenographer, though, she had also been given technical break of one day each from time to time.

5. According to the averments made by petitioners, petitioner No. 3 was also sponsored by the Sub-Regional Employment Exchange, Daryaganj for the post of Junior Stenographer. She appeared for stenography test on 14th November, 1998. Reliance was placed on OM dated 27th October, 1998. The petitioner No. 3 appeared for interview on 30th November, 1998 and after medical examination pursuant to OM

dated 1st September, 1999, she was appointed to the post of Junior Stenographer in the pay scale of Rs.4000-100-6000 plus usual allowances on *ad hoc* basis. She was also given technical break of one day each from time to time.

6. Petitioner No. 4 had appeared for the typing test on 4th January, 1994 for the post of Lower Division Clerk after her name was sponsored by the Sub Regional Employment Exchange, Darya Ganj and after the interview and medical examination, she was offered appointment to the post of Lower Division Clerk in the pay scale of 950-20-1150-EB-25-1500 plus usual allowances and she has been working as an LDC with respondent No. 1.

7. Similarly, petitioner No. 5 joined as LDC on 19th January, 1996. He was also medically examined and his character antecedents were also got examined by the police before his appointment. According to the petitioner No. 5, he has been discharging his duties as LDC though he has been given a technical break of one day each from time to time. Petitioner No. 6 was also offered appointment to the post of LDC on *ad hoc* basis in the pay scale of Rs.950-1500 and he formally joined his duty as LDC on 11th September, 1996.

8. According to the petitioners, they have been appointed after satisfying all the procedural formality, i.e., their names were sponsored

by the Employment Exchange and they competed and got selected in typing test where after they were interviewed and before appointment, they were also medically examined and their antecedents were also got verified.

9. The petitioners, therefore, made representations to the respondents for their regularization as there exists regular vacancies for three posts of LDCs and three posts for Junior Stenographers. The petitioners prayed for regularization as according to them, they were appointed against the regular vacancies and even the Department of Personnel and Training, Govt. of India had given annual approval for their continuance in the post held by them from time to time. Petitioner Nos. 1 to 3 asserted that they fulfilled all the conditions required for appointment to the post of Junior Stenographer as per the Recruitment Rules for the post of Junior Stenographer and petitioner Nos. 4 to 6 fulfilled all the eligibility criteria for appointment to the post of LDC as per Recruitment Rules.

10. The petitioners specifically contended that the respondent No. 1 had earlier also regularized the services of other employers, who were similarly placed and were appointed on *ad hoc* basis and reliance was placed on the order dated 16th November, 1997 of Staff Selection Commission whereby respondent No. 1 had regularized the services of

three persons after they were successful in the special qualifying examination conducted by the Staff Selection Commission.

11. The petitioners also disclosed that they had preferred an original application being OA 1035/2004 before the Central Administrative Tribunal, Principal Bench and on 11th June, 2004, respondents by order dated 11th June, 2004 had regularized the services of the petitioners. According to the petitioners they withdrew their original application being OA 1035/2004 on the premises that their grievances have been redressed and they had joined the duty on regular basis w.e.f. 11th June, 2004.

12. The respondents however, sought to terminate the ad-hoc appointment of the petitioners. The petitioners therefore, filed another original application before the Central Administrative Tribunal. The original application before the Central Administrative Tribunal was filed by six petitioners and another applicant Smt. Charu Arora, who was appointed as data entry operator. In the circumstances, the petitioners contended that the respondents being model employers, are liable not to terminate the services of the petitioners specially as vacancies clearly exist and the petitioners cannot be allowed to continue working on *ad hoc* basis for a long period. According to them, once they were appointed after a proper and regular process of selection, their services cannot be terminated arbitrarily, whimsically and illegally by

respondents and without giving them an opportunity of being heard. The petitioners in the circumstances sought directions to the respondents to continue their regular appointment pursuant to OM dated 11th June, 2004 and not to terminate their services.

13. The OM dated 11th June, 2004, however, stipulated that the appointment offered to the petitioners was temporary appointment on temporary basis until further orders. The petitioners were put on probation for two years from the date of appointment and it was clarified that their period of probation could be extended at the discretion of the competent authority.

14. The petition was contested by the respondent contending, inter alia, that the petitioners had not been recruited by Staff Selection Commission but had been appointed by respondent No. 1 on *ad hoc* basis. It was contended that all appointments in the Central Govt. on regular basis are to be made in accordance with the prescribed Recruitment Rules and after following the prescribed procedure. It was also disclosed that Constitution of India contemplates appointments by the Union or State Public Service Commission, however some posts including Group- C & D posts are taken out of purview of UPSC and consequently, for some time, recruitment to these posts was made by the concerned departments. However, on the recommendations of the Administrative Reform Commission, the Central Govt. had set up a

separate Subordinate Selection Board with the objective of making recruitment to all Group-C (non-technical) post under the Central Govt. Therefore, all appointments on regular basis in various Group-C common category posts such as clerks, stenographers etc. are made only on the recommendations of the Staff Selection Commission. The respondents emphasized that even if a vacancy in the Ministry/Department/Organization is required to be filled urgently on a temporary and *ad hoc* basis in view of exigencies of work pending, selection is to be made through the Staff Selection Commission. Even if such appointment continues for number of years for any reason, it does not give rise to any claim for regular appointment solely on the basis of having worked for long periods.

15. Regarding petitioners, it was contended that merely because they have been retained by the Ministry of Tourism on *ad hoc* basis for some time does not entitle them for regularization by circumventing the normal selection process through Staff Selection Commission. It is for this reason, respondent No. 2 had not agreed to a proposal of respondent No. 1 for regularization of *ad hoc* clerks, stenographers etc. and had advised to make regular appointments through Staff Selection Commission. The respondents placed reliance on various precedents of the Supreme Court to contend that unless the initial appointment is regularized through a prescribed agency, there is no scope for a demand for regularization. It was also contended that mere continuation on *ad*

hoc basis, does not entitle an employee for regularization nor such an employee can claim any waiver or regularization on the ground of legitimate expectation. Regarding petitioners, it was averred that they were appointed in the Ministry of Tourism through Employment Exchange purely on *ad hoc* basis during the period 1993 to 1999 on different dates against the regular vacancies of LDCs and Junior Stenographers. As per the Recruitment Rules, the post of LDCs and Junior Stenographers are to be filled through open competitive examination conducted by Staff Selection Commission. Ministry of Tourism from time to time had referred these vacancies to Staff Selection Commission, so that the process for appointment to the said post could be initiated and could be completed by Staff Selection Commission. Staff selection Commission, however, delayed the regular process of appointment. Therefore, on account of exigencies and need of man power, *ad hoc* appointment/arrangement were made with the help of employment exchange on purely *ad hoc* basis. Since there was continuous delay in getting dossiers from Staff Selection Commission, it was decided in the Ministry of Tourism to continue the services of the petitioners after obtaining approval of DOPT on yearly basis and consequently, their services came to an end after 89 days and the petitioners were re-appointed in the same grade after 89 days making it clear that they will have no claim for regular appointment in their respective grades.

16. On behalf of the respondents, another counter affidavit of Sh.Kuldeep Kumar, Under Secretary, Ministry of Tourism, dated January, 2005 was filed contending inter-alia, that as per the Recruitment Rules, though the posts of Lower Divisional Clerks and Junior Stenographers were to be filled up through open competitive examination conducted by the Staff Selection Commission, and the Ministry of Tourism had reported these vacancies to the Staff Selection Commission, however on account of delay in receiving the recommendation from the Staff Selection Commission of the selected candidates, and on account of exigencies and need for manpower, ad-hoc appointments were made through the Employment Exchange. It was further asserted that there was continued delay in getting dossiers from the Staff Selection Commission, therefore, it was decided in the Ministry to continue the services of the petitioners after obtaining approval of DOP&T on yearly basis. Therefore, the petitioners were appointed for 89 days and they were re-appointed in the same grade after 89 days, after specifically clarifying to them that they would have no claim for regular appointment in their respective grades.

17. The respondents also contended that the Ministry of Tourism had made representations for regularization of services of the petitioners by holding Special Examination and the request for regularization of the services was sent to the DOP&T, however, DOP&T did not agree for the

same in view of their OM No.28036/1/2001-Estt.(D) dated 23rd July, 2001. The said OM categorically stipulated that persons appointed on ad hoc basis to a grade are to be replaced by persons approved for regular appointment by direct recruitment, promotion or transfer (absorption), as the case may be, at the earliest opportunity. The said OM also categorically stated that if an appointment is ad-hoc, it would not bestow on the person a claim for regular appointment, and these facts should be clearly stipulated in the order of appointment on ad hoc basis. The OM dated 23rd July, 2001 also detailed that thereafter no appointment should be made on ad-hoc basis by direct recruitment from open market and where the vacant post cannot be kept vacant for functional consideration, efforts should be made to entrust the additional charge of the post to a serving officer under the provisions of FR 49, failing which only appointment by ad hoc promotion/ad hoc deputation may be considered.

18. The respondents also disclosed that the Ministry had recommended for regular appointment of the petitioners in their respective grades on the basis of the Special Performance Report received from the different controlling officers of the petitioners and consequently, they were taken on rolls w.e.f. 11th June, 2004 vide Order No.A-12034/2/2004-Admn.-I dated 15th June, 2004 and were allowed to draw their salary as per entitlement to the post like regular employees, however, DOP&T did not permit any department to

regularize any ad-hoc appointment and held that all the appointments on regular basis have to be in accordance with the provisions of recruitment rules and after following prescribed procedure. The DOP&T had asked the Ministry of Tourism to rescind forthwith the regularization of the petitioners which was allegedly done by the order dated 15th June, 2004 and also directed the taking of necessary remedial action in the matter in accordance with the laid down policy on the subject and the specific advice of the DOP&T. The Principal Accounts Officer, Ministry of Civil Aviation & Tourism vide its OM PAO(Tourism) Appointment/2004/917- 22 dated 17th September, 2004 also directed the Ministry of Tourism not to draw salary of the petitioners and consequently, the Ministry of Tourism had stopped the salary of the petitioners from September, 2004 onwards, as the approval of DOP&T was not available at that time.

19. The salary of the petitioners was, however, released pursuant to the order dated 24th December, 2004 passed by the Tribunal in MA No.2411 directing the disbursement of salary for the relevant period that the petitioners had worked. The Ministry had also sought an Ex post facto approval for relaxation of the provisions of Recruitment Rules in respect of the age and the source of recruitment for appointment of the petitioners on regular basis. The DOP&T, however, by their DO letter No.28036/2/01-Estt. (D) dated 20th September, 2004 disclosed that general powers on relaxation of Recruitment Rules for group “C” &

“D” does not empower the Department to waive the requirement of selection through Staff Selection Commission. It was also disclosed that when there is a specific advice of DOP&T in the matter, general powers delegated by the DOP&T cannot be invoked to overrule the specific advice of DOP&T and thus, sought revocation of the order of regularisation by the Ministry, as it was illegal.

20. The Tribunal considered the pleas and contentions of the parties and by order dated 16th January, 2006 dismissed the original application of the petitioners, while relying on A.K.Bhatnagar v. Union of India, (1991) 1 SCC 544; Dr.Chanchal Goyal v. State of Rajasthan, (2003) 3 SCC 485; Secretary, State of Karnataka v. Uma Devi & Ors, 2004 SCC (L&S) 935; Pankaj Gupta & Ors. v. State of Jammu & Kashmir, (2004) 2 SCS LJ 384; Delhi Transportation Corporation v. D.T.C. Mazdoor Congress & Others, 1991 SCC (L&S) 1213 and directed the respondents that for all the vacant posts, the application be called for as per the procedure laid down and the petitioners be permitted to file their applications for participation in the examination. The Tribunal further directed that the age relaxation be given to the petitioners, however the basic qualifications would not be relaxed and till the regular appointment is made to the posts on which the petitioners are working, the petitioners would be continued on the same terms and conditions with payment of wages for the work done. In case the

petitioners are selected, their appointments would be continued on the regular basis.

21. The petitioners have challenged the order of the Tribunal, contending inter-alia that the Tribunal has erred in passing the said order, as the petitioners were already regularized on the vacant posts of Junior Stenographers and LDCs by way of OM dated 11th June, 2004 and therefore the petitioners can only be subjected to Special Qualifying Examination, instead of regular examination.

22. According to the learned counsel for the petitioners, the petitioners were appointed on the regular posts vide OM dated 11th June, 2004 and the impugned order has been passed by not properly considering the OM dated 11th June, 2004. According to the petitioners, they were appointed after satisfying all the procedural formalities i.e. their names had been sponsored by the Employment Exchange, and thereafter they had to compete and get selected in Typewriting Tests and they were interviewed as well. Before their appointment they were also medically examined and their antecedents were duly verified by the police. Thus, according to the learned counsel, the petitioners were put to procedural formalities by way of test and interview in terms of relevant rules prevalent at that time, and therefore, the petitioners could not be held to be appointed de-hors the rules. According to the learned counsel, in any case the petitioners can

only be subjected to Special Qualifying Examination. Learned counsel has also emphasized that the Tribunal failed to consider that similarly placed ad-hoc employees had already been regularized by the respondents after requesting the Staff Selection Commission to conduct the Special Qualifying Examination for them and also relied on the letter dated 23rd January, 1993 being the approval for regularisation pursuant to Special Examination held by the Staff Selection Commission on 26th December, 1993 the result of which examination was declared on 6th October, 1994.

23. The pleas and contentions raised by the petitioners were refuted by the respondents who filed reply dated 9th May, 2007 reiterating the pleas and contentions raised before the Tribunal on the basis of which the claim of the petitioners for regularisation and for regular appointment was declined. The respondents reiterated that the petitioners were appointed during the period of 1993- 1999 on ad-hoc basis, as even though the Ministry had reported the vacancy to the Staff Selection Commission, however, there was delay on the part of the Staff Selection Commission, and consequently, ad- hoc appointments were made after getting the names from the Employment Exchange.

24. This Court has heard the learned counsel for the parties in detail. It is not disputed that the petitioners were appointed on ad- hoc basis. The reliance has been placed by the petitioners on communication

dated 11th June, 2004 to contend that their appointment was regularized after following proper procedure of examination, interview and medical examination and after verifying their antecedents. However, perusal of letter dated 11th June, 2004 reveals that appointment of the petitioners was not on regular basis, but was on temporary basis and until further orders. The letter dated 11th June, 2004 is as under:-

Government of India
Department of Tourism

Transport Bhawan,
1, Parliament Street,
New Delhi-110001

No.A-12034/2/2004-Admn.I (U)

Shri Sanjeev Kumar,
Lower Division Clerk (Ad hoc)
Department of Tourism
New Delhi-110001

Sir,

The Deputy Secretary to the Government of India, Department of Tourism hereby offers temporary appointment to the said post of Lower Division Clerk which you are presently holding on purely ad hoc basis, on the following terms and conditions:-

1. This post is Non-ministerial and carries the pay scale of Rs.,3050-75-3950-804590. You will be entitled to the minimum of the Pay Scale of the post. Dearness and other allowances will be admissible under the rules governing the grant of such allowance in force from time to time.
2. **Your appointment will be purely on temporary basis and until further orders.**
3. Your services will be liable to be terminated on one month's notice from either side in accordance with the Central Civil Service (Temporary Service) Rules, 1965, without assigning any reasons. The Appointing Authority, however, reserves the right to terminate your services forthwith or before the expiration of the stipulated period of notice by

making payment to you of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

4. You will be on probation for two years from the date of appointment, which period may be extended at the discretion of the Competent Authority.

5. Your Leave, Travelling Allowances, contribution to General Provident Fund, Pension and all other service matters connected with service conditions will be governed by the rules and orders in force from time to time in the Government of India.

6. You will be liable to be posted anywhere in India.

7. You will not be entitled to Travelling Allowance for joining the post.

8. On joining the post, you will be required to take an Oath of Allegiance to the Constitution of India or make a solemn affirmation to that effect.

9. If you claim to belong to a Scheduled Caste, Scheduled Tribe or Other Backward Classes, you have to produce a certificate issued in the prescribed form by any of the Judicial/Revenue Authorities mentioned therein. You should note that your appointment will be provisional and is subject to verification of the Caste/Tribe certificate through proper channels, and that if the claim to belong to SC/ST/OBC is found to be false, the services will be terminated forthwith without assigning any reason and without prejudice to such further action that may be taken under the relevant rules. You should also intimate the change, if any, of your religion, after appointment, immediately to the Appointing/Administrative Authorities concerned.

10. In accordance with the relevant rules in force in regard to the recruitment to services under the Government of India.

(a). No person who has more than one wife living or who, having a spouse living contracts a second marriage though such marriage is void by reason of its taking place during the life-time of such spouse, shall be eligible for appointment to service, provided that the Central Government may, if satisfied that there are other grounds also exempt any persons from the operation of this rule.

(b) No such woman whose marriage is void by reason of its taking place during the life time of her spouse or who has married a person who has having a spouse at the time of such marriage, shall be eligible for appointment in service unless the Government of India has granted exemption to such a woman in accordance with this rule after being satisfied that there are special grounds.

This offer of appointment is, therefore, conditional upon your satisfying the requirement mentioned and furnishing declaration in the form enclosed to this letter, along with your reply. If, however, you do not fulfill the above condition and you desire to be exempted from the above mentioned rules for any reasons, you should make a representation in this behalf immediately. In that case this offer of appointment should be treated as cancelled and a further

communication will be sent to you in due course after considering your representation in the matter.

11. As your earlier appointment in the Department of Tourism was purely on ad hoc basis, you will have no claim whatsoever for any benefits for the past service rendered on ad hoc basis with reference to seniority, fixation of pay, counting of past service for pension benefits etc.

12. If you accept the offer on the above terms and conditions, you are requested to intimate your acceptance to the undersigned and report yourself for duty immediately with the following documents.

(i) Original Certificates of Educational Qualification along with a set of attested copies.

(ii) Certificate of Age (Matriculation or equivalent certificate)

(iii) Declaration of regarding marriage in the prescribed proforma enclosed.

(iv) Caste Certificate in the case of SC/ST/OBC candidate in the form enclosed and certificate about non-creamy layer status (if you are seeking reservation as an OBC candidate).

(v) Declaration for the Home Town and in the prescribed form along with details of family entitled to the LTC.

Your faithfully

(Kuldeep Kumar)

Under Secretary to the Government of India

25. The Tribunal has noted all these facts, and circumstances and the learned counsel for the petitioners is unable to point out any illegality in the observations made by the Tribunal.

26. The learned counsel for the petitioners also contended that there should have been Special Examination conducted by the Staff Selection Commission, as was done in similarly placed persons, which is apparent from the letter dated 23rd January, 1993 whereby pursuant to the special examination conducted by Staff Selection Commission on 26th December, 1993 the results were declared on 6th October, 1994 and the regular appointments were made. Learned counsel for the

petitioners is, however, unable to give any plausible explanation as to how Special Examination could be conducted after 23rd July, 2001 pursuant to the OM categorically stipulating that the matter regarding regularization of ad-hoc appointees have been reviewed and it has been decided that no appointment should be made on ad-hoc basis by direct recruitment from open market and whenever the vacant post cannot be kept vacant for functional considerations, efforts should be made to entrust the additional charge of the post to a serving officer under the provisions of FR 49. The Tribunal, in fact has directed the respondents to conduct examination by calling applications as per the procedure laid down and has permitted the petitioners to participate in the examination and has even permitted the age relaxation.

27. In Pankaj Gupta (Supra), the Supreme Court had held that no person appointed without following the procedure prescribed under law is entitled to claim that he should be continued in service. The observations of the Supreme Court are as under:-

"No person illegally appointed or appointed without following the procedure prescribed under the law, is entitled to claim that he should be continued in service. In this situation, we see no reason to interfere with the impugned order. The appointees have no right for regularization in the service because of the erroneous procedure adopted by the concerned authority in appointing such persons. Hence the reliefs are required to be molded especially in view of the fact that the appellants were appointed as early as in the year 1997 and ever since they have been working as Orderlies, Process Servers, Guards, etc. Moreover, the appointments of the appellants were made on the basis of the recommendations of the

members of the Legislative Assembly and Legislative Council and on the basis of the decision made by the State of Jammu & Kashmir pursuant to a detailed discussion on the floor of the Legislative Assembly regarding lack of proper representation of rural masses as compared to urban candidates in government jobs. Hence, we issue the following directions: -

- (1) All the vacant posts shall be notified for appointment and applications called for in accordance with the Rules within six months from the date of the receipt of the judgment.
- (2) All the appellants herein may be permitted to submit application for appointment against such notification.
- (3) As regards the upper age limit, these appellants shall be given relaxation but there shall not be any relaxation in the matter of the basic qualifications for appointment to Class IV posts.
- (4) The appellants may be allowed to continue in service till such regular recruitment are made and these posts are filled up by a regular process of appointment.”

28. In the circumstances, it cannot be held that the petitioners were appointed by the Staff Selection Commission as per the procedure laid down for appointment to the regular post. The petitioners were appointed on temporary basis and until further orders and they cannot claim that since they were appointed pursuant to their names being taken from the Employment Exchange and interview conducted by the authorities and their medical examination & verifying their antecedents, they would be entitled for regularisation. No grounds or reasons have been disclosed by the petitioners to deviate from the mandate of office memorandums of the respondents putting an embargo to regularize any

employee who is appointed on temporary basis by the department/Ministries and who has not been selected by the Staff Selection Commission for the regular post.

29. In the totality of the facts and circumstances, this Court does not find such illegality or unsustainability in the order of the Tribunal which shall entail any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The learned counsel for the petitioners has failed to show any such perversity or such fact which would impel this Court to direct the regularisation of the petitioners, in view of the various OMs issued by the respondents. Therefore, there are no grounds to interfere with the order of the Tribunal. The writ petition is without any merit and it is therefore, dismissed. Parties are left to bear their own costs.

ANIL KUMAR, J.

SUDERSHAN KUMAR MISRA, J.

MAY 02, 2011

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