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

\+ **WP(C) No.21946/2005**

% **Date of Decision: 09.05.2011**

Bharat Gupta .... Petitioner

Through Nemo

Versus

UOI & Ors. .... Respondents

Through Ms. Anjana Gosain, Advocate

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR
HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

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 petitioner has filed the above noted writ petition seeking writ of certiorari for quashing the order dated 30th November, 2004 issued by the Executive Director, Airports Authority of India terminating the *ad hoc* appointment of the petitioner as Junior Attendant (Office) and for further directions to the respondents to continue the petitioner on the post of Junior Office Attendant and also for directions to the respondents to accord similar treatment to the petitioner as has been accorded by the respondents to those, who have been appointed on regular basis.

2. According to the petitioner, by Order dated 11th January, 2001, on the approval of the competent authority, he was appointed on *ad hoc* basis as office attendant in the pay scale of Rs.2400-3300, initially for a period of six months. According to him, his *ad hoc* appointment continued up to 31st December, 2001 on approval of competent authority by order dated 17th July, 2001. Later on by order dated 3rd June, 2002, he was again appointed as Junior Attendant (Office) in the pay scale of Rs.4400-6920 on *ad hoc* basis for a further period of six months.

3. The petitioner was further given an extension of the appointment till further orders, by order dated 30th December, 2002 and he had also been given all the service benefits attached to the said post.

4. The petitioner asserted that while working on *ad hoc* basis, he had been contributing to the provident fund under No. 26504 and he was also subjected to Income Tax deductions at source. However, by order dated 30th November, 2004, his services were terminated, which order is challenged by the petitioner on the ground that the order has been passed mechanically and the order of termination is colourable exercise of power by the respondent.

5. The petitioner contended that the termination of his service is based on unfounded, baseless, fabricated and concocted grounds and

the respondents have indulged in hire and fire policy. It was also contended that the petitioner has been exploited by making him work on ad hoc basis for such a long span of time.

6. The writ petition is contested by the respondent contending, inter alia, that the petitioner along with about 133 employees was appointed as Junior Attendant (Office) in the pay scale of 4400-6320 on 3rd June, 2002. According to the service conditions as per the appointment letter, the service of the petitioner could be terminated at any time without assigning any reason/notice.

7. The respondents asserted that numerous complaints were received by the Vigilance Department against the appointments, as ad hoc appointments were in total contravention of service rules and the recruitment procedure, as these posts were filled on the recommendations of several Ministers and important persons. The posts which were filled were not circulated in terms of the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. Since the appointments were not made as per the due procedure for the regular post, considering the various facts including the report of the Chief Vigilance Officer, services of all the Office Attendants who had been appointed on ad hoc basis including the petitioner were terminated.

8. Regarding the petitioner, it was admitted that though he has the essential educational qualification, but on the date of appointment, he was over aged and was appointed on the recommendation of an important person. It was also pleaded that the appointment on ad hoc basis was also contrary to the proper procedure. The post of Office Attendant was a Group-D Post and in terms of Section 4 of the said Act, the post had to be circulated through Employment Exchange which was not done. The respondents also asserted that about 28 persons were regularized though they were appointed initially on ad hoc basis and on finding irregularities in their appointments and on account of non-compliance of the procedure as contemplated under the service rules and law, the appointment of all these persons too were terminated collectively.

9. The other employees, whose services had also been terminated had filed different writ petitions. In their writ petitions an order dated 30th April, 2007 was passed in WP(C) No. 18661-65/2004 titled as 'Rajender Kumar Saxena & Ors. Vs. UOI', wherein detailed directions were given while disposing of all the writ petitions. The directions which were given by the Court in the other writ petitions are as follows:-

> "1. Petitioner as well as other employees whose services were terminated on similar grounds would be given an opportunity for selection in the proposed recruitment of Group C and Group D posts.
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> 2. For Group D posts, suitability of the candidates would be adjudged by interview and wherever applicable, a trade test for the specific occupation. Additionally,

suitability may be adjudged on the basis of familiarity with office procedures, basic knowledge of reading and writing, identification of files, nothings thereon etc.

3. For Group C posts, a written objective test, which would assess the aptitude, General Knowledge, the job knowledge, proficiency in English language would be held. A Typing Test would also be held. However, those of the petitioners/terminated employees, who have qualified the typing test of the respondents earlier, would be considered for exemption. This would be applicable where the record of Typing Test passed earlier is available. In addition, candidates would be interviewed.

4. Respondents would make available 50% of the vacancies for the petitioners and others whose services have been terminated, subject to their qualifying the objective written/trade test. 50% vacancies to be filled based on the merit amongst the petitioners and others, whose services were terminated subject to their qualifying the written objective and trade test being selected in interview.

5. Age relaxation would also be made available to the petitioner and others whose services have been terminated. As regards weightage for experience and knowledge peculiar to the respondent organization, the same stands provided by provision of 50% of the vacancies being made available to them."

10. Pursuant to these directions, all the petitioners in the different writ petitions, whose services had been terminated, had complied with the directions given, except for the present petitioner and two other petitioners whose writ petitions are also pending.

11. The other employees, who were appointed on ad hoc basis and whose services were terminated appeared in the examination held on 28th October, 2007; however, petitioner did not appear in the examination. The respondents also contended that termination took place in November, 2004 and thereafter all the posts have been filled up

pursuant to the directions passed by this Court. In the circumstances, it has been contended that the reinstatement of the petitioner is not possible as he was appointed on ad hoc basis without following the procedure for regular appointment and the order of termination cannot be termed to be invalid on the grounds alleged by the petitioner.

12. The writ petition was taken up for hearing on 3rd May, 2011, however, no one was present on behalf of the petitioner despite awaiting for the counsel. On that date, no adverse order was passed in the interest of justice and the matter was allowed to remain on board in the category of 'Regular Matters'.

13. The matter was again taken up on 4th May, 2011 and again no one appeared on behalf of the petitioner and no adverse order was passed against the petitioner even on that date.

14. Today again, no one is present on behalf of the petitioner. In the circumstances, the writ petition is dismissed in default.

ANIL KUMAR, J.

SUDERSHAN KUMAR MISRA, J.

MAY 09, 2011.
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