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

+ Judgment Reserved on : 17.07.2014

Judgment Delivered on : 24.07.2014

% W.P.(C.) No. 4660 of 2008 & C.M. Nos.18319/2011 & 462/2014

GOVT. OF NATIONAL CAPITAL TERRITORY OF DELHI
..... Petitioner
Through: Ms. Avnish Ahlawat, Advocate

versus

DELHI DEVELOPMENT HORTICULTURE EMPLOYEES UNION
.....Respondent
Through: Mr. K.M.M.Khan & Mr N.R.Ram Kumar, Advocates

% W.P.(C.) No. 4661 of 2008 & C.M. No.8986/2008

UOI & ORS.
..... Petitioner
Through: Ms. Avnish Ahlawat, Advocate

versus

GURMUKH SINGH & ORS. .....Respondents
Through: Mr. K.M.M.Khan & Mr N.R.Ram Kumar, Advocates

% **W.P.(C.) No. 4669 of 2008 & C.M. No.9008 /2008**

UOI & ORS.

..... Petitioner

Through: Ms. Avnish Ahlawat, Advocate

versus

BHAGAT RAM& ORS. .....Respondents

Through: Mr. K.M.M.Khan & Mr N.R.Ram Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE VIPIN SANGHI

VIPIN SANGHI, J.

1. The petitioner – Government of NCT of Delhi/Union of India has preferred the present writ petition to assail the order dated 17.12.2007 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/Tribunal), in O.A. Nos.1705/2005, 800/2006 and 955/206, whereby the Tribunal has directed the petitioner to grant relaxation in the upper age limit of 27, by the number of years that the respondent individuals rendered service in casual, temporary or ad hoc basis. In respect of Schedule Castes/Scheduled Tribes, the age relaxation has been directed to be granted by another five years as per the instructions prevailing on the subject as issued by the Central Government.

2. The background facts in which the respondent approached the Tribunal are that the respondents rendered service with the Delhi Rural

Development Agency (DRDA) under the Jawahar Rozgar Yojana as a daily wage worker in respect of a temporary Scheme funded by the Central Government. Such casual workers of the DRDA upon being declared surplus, and similarly placed workers of the Delhi Energy Development Authority (DEDA) preferred Writ Petition (C) Nos. 323-325/1989 and Writ Petition No.818/1989 before the Supreme Court of India to seek regularization. The Supreme Court declined to grant the said relief by its judgment reported as ***Delhi Development Horticulture Employees Union Vs. Delhi Administration, Delhi & Ors.*** 1992(4) SCC 99. However, the Supreme Court made the following direction:

> "In the circumstances, it is not possible to accede to the request of the petitioners that the respondents be directed to regularize them. The most that can be done for them is to direct the respondent-Delhi Administration to keep them on a panel and if they are registered with the Employment Exchange and are qualified to be appointed on the relevant posts, give them a preference in employment, whenever there occurs a vacancy in the regular posts, which direction we give hereby."

After the passing of the said order, it appears that members of the respondent Union were not absorbed. A contempt petition was preferred before the Supreme Court which was not entertained by the Supreme Court. However, liberty appears to have been granted to proceed appropriately as per law. Resultantly, O.A. No. 1431/1999, 22686/2000 and 749/2001 etc. were filed before the Tribunal apart from contempt applications. It was the case of the respondent that a large number of persons were given appointment sometime during the year 2001 and later on in terms of the aforesaid direction of the Supreme Court. In this background, the Tribunal

passed the impugned order directing grant of age relaxation to the members of the respondent Union so that they could gain absorption and employment with the petitioner.

3. We have heard learned counsel for the parties. The submission of Ms. Avnish Ahlawat, learned counsel for the petitioner is that the Supreme Court primarily rejected the relief of regularization sought by the workers. The Supreme Court only directed that the said casual workers be kept on a panel if they are registered with the employment exchange and are qualified to be appointed on the relevant posts, so that preference could be given to them in employment whenever vacancy occurs in regular posts. The submission is that the Supreme Court did not direct grant of age relaxation to such casual workers so as to grant them appointment in future. The submission is that the direction issued by the Supreme Court way back in 1992 i.e. 22 years ago could not have been intended to operate for all times to come. Those who could not be granted appointment – for whatever reason, cannot continue to claim a right to be considered for appointment on preference basis by claiming age relaxation after the lapse of such length of time.

4. On the other hand, the submission of respondent is that they have continuously been representing and seeking employment in terms of the direction issued by the Supreme Court. The petitioner cannot take advantage of the non-compliance of the direction issued by the Supreme Court and defeat the right of the respondents to be considered for appointment merely on account of passage of time.

5. Having heard learned counsels, we are of the view that the Supreme Court primarily rejected the claim made by the casual workers, inter alia, working in DRDA, to seek regularization. The Supreme Court, with a view to rehabilitate the casual workers, inter alia, of DRDA, who were rendered surplus, directed the petitioner to keep them on a panel if they were registered with the Employment Exchange and qualified to be appointed on the relevant posts so that they could be given preference in employment whenever they occurred in the regular posts. The said direction, in our view, did not vest a right in such casual workers to be considered for appointment in perpetuity. While making the said direction, it cannot be assumed that the Supreme Court envisaged or contemplated that the life of the panel would be indefinite, or that such a penal would be kept alive for decades. Much less can it be assumed that the Supreme Court directed that each and every person in the panel must be appointed by the petitioner in preference to others, and that the panel should continue to be maintained till it is exhausted. Like in the cases of compassionate appointment, the essence of which is to grant immediate succor to the family of the deceased government servant who dies in harness, so also the purport of the direction issued by the Supreme Court appears to be to grant immediate succor to the casual workers who were rendered surplus. The direction issued by the Supreme Court did not create a vested right in the casual workers rendered surplus to get employed with the petitioner in all circumstances, and even after passage of decades from the date when the direction was issued.

6. For the aforesaid reasons, we are of the view that the Tribunal was not justified in directing grant of age relaxation in the matter of consideration of

the case of the surplus rendered casual workers of DRDA so late in the day. Pertinently, even when the impugned order was passed, 15 years had passed from the time when the Supreme Court direction was issued. In our view, it is high time that a quietus is put to such claims for preference in employment in respect of the surplus rendered casual workers of the DRDA. Accordingly, the writ petition is allowed leaving the parties to bear their respective costs.

VIPIN SANGHI, J.

S. RAVINDRA BHAT, J

JULY 24, 2014
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