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

+ W.P.(C) 673/2012

INDIAN COUNCIL OF AGRICULTURAL
RESEARCH AND ORS

..... Petitioners

Through: Mr. Gagan Mathur, Advocate

versus

AMAR SINGH AND ORS

..... Respondents

Through: Ms. Monica Kapoor, Advocate

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

15.05.2015

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KAILASH GAMBHIR, J. (ORAL)

1. By way of the present Writ Petition, the petitioners seek to question the tenability of the order dated 14.07.2011 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (*hereinafter referred to as the 'learned Tribunal'*) in Original Application (*in short 'OA'*) No.1787/2010.

2. Assailing the legality and correctness of the order passed by the learned Tribunal, Mr. Gagan Mathur, the learned counsel for the petitioners submits that the services of these respondents were terminated by the order dated 24.04.2010 passed by the Competent Authority and the order of termination passed against these respondents is termination

simplicitor and not a stigmatic order. The learned counsel also submits that these respondents were on probation and the petitioners were well within their rights to terminate the services of the respondents without stating any reason and without serving any Show Cause Notice. He further submits that there was a complete irregularity in the process of carrying out the recruitment of these respondents as the Director of the petitioners Institute did not place these posts before the Annual Direct Recruitment Plan (*hereinafter referred to as 'ADRP'*) for clearance and they were not shown in ADRP for the years 2006-2007 & 2007-2008. The learned counsel also submits that even the clearance of the governing body of the petitioners Institute was not obtained before issuing the Notifications dated 20.06.2008. The learned counsel also submits that the selection process was in complete violation of para 8 of the Scheme for Grant of Temporary Status and Regularisation Scheme 1993 framed by DoP&T whereby two out of every three vacancy in Group 'D' have to be filled up from casual labourer with temporary status as per the recruitment rules. In support of his arguments, the learned counsel for the petitioners placed reliance on the following judgments:

- 1. *Pavanendra Narayan Verma v. Sanjay Gandhi*
*PGI of medical sciences (2002) 1 SCC 520.***
- 2. *Union of India and others v. O. Chakradhar***

AIR 2002 SC 1119.

3. Ms. Monica Kapoor, the learned counsel for the respondents, on the other hand, submits that these respondents were long term daily wage employees working with the petitioners but since the petitioners were not giving them temporary status and were also not taking any steps to absorb them against regular vacancies of Group- D, therefore, they had approached the learned Industrial Tribunal, Kanpur (*in short 'ID'*) wherein an award was passed in their favour which was also upheld by the High Court of Allahabad. The submission of the learned counsel for the respondents is that it is pursuant to the direction given by the High Court of Allahabad, that the petitioners issued an advertisement to invite applications for the post of Supporting Staff (*in short 'SS'*) Grade-I (Class-IV Post) under Direct Recruitment quota and the respondents had applied against these posts and were finally selected. The learned counsel also submits that these respondents were given appointment on the said post and in fact they had worked for over a period of one year and 10 months but the petitioners not only denied them their salary and other dues but also terminated their services vide order dated 24.04.2010. The learned counsel further submits that since no reasons were given by the petitioners for terminating their services, therefore, they had sought

information from the petitioners under the Right to Information Act, 2005 (*hereinafter referred to as the 'RTI Act'*) and in the reply submitted by them, the respondents for the first time came to know that the reason for their termination was that there were some defect in their 'Papers'. The learned counsel further submits that before the learned Tribunal, the petitioners gave different reason for terminating their services and the same being that the petitioners found gross irregularities in the appointment of these respondents, and their appointments were not cleared by the governing body of the petitioners and the same was thus in complete violation of para 8 of the Grant of Temporary Status and Regularisation Scheme 1993 framed by DoP&T. The submission of the learned counsel for the respondents is that there was no fault on the part of the respondents as they were duly selected by the selection committee and were given appointment as direct recruits and during the period of probation at no stage any complaint or grievance was raised against their functioning. It is further stated that, it is only when the respondents had approached the learned Tribunal then for the first time the petitioners came up with the said pleas to justify their stand of terminating the services of these respondents. Based on these submissions, the learned counsel for the respondents submits that there is no illegality or perversity in the reasoning given by the learned Tribunal in the order passed by it.

4. We have heard the learned counsel for the parties.

5. During the course of arguments, the learned counsel for the petitioners was repeatedly asked as to why and on what basis in their reply to the RTI, the reason for termination given by them was that there were defects in the 'Papers' of these candidates. The learned Tribunal in the impugned order has also held that neither the petitioners nor their counsel could explain as to what kind of defects were noticed in the 'Papers' of these candidates and therefore, such a stand taken by the petitioners in their reply to the RTI seems unfounded. The learned Tribunal further held that the reasons given by the petitioners under the RTI Act and the reasons given by them in their reply to the OA preferred by the respondents are far from true. It is not the case of the respondents that the termination order issued by the petitioners was stigmatic but the question is, what were the actual reasons to terminate the services of these respondents who were duly selected by the selection committee pursuant to the notification issued by the petitioners to invite applications from the candidates to fill the post of Supporting Staff Grade-I (Class-IV) in compliance of the direction given by the Allahabad High Court after an award was passed in favour of these respondents in ID No. 128/189.

6. The learned counsel for the petitioners has placed reliance on the

judgment of the Apex Court in *Pavanendra Narayan's case (supra)*. In that case the matter in issue was whether the termination of the employees was a termination simplicitor or was it punitive. In the case at hand, it is abundantly clear that the termination of respondents was termination 'simplicitor' and hence not in issue. Reliance placed by the counsel for the petitioners on the judgment of the Hon'ble Supreme Court in *Union of India v. O. Chakradhar's case (supra)* is also of no relevance as the issue in this case is not of termination of service without stating reasonable grounds but rather is a case where the whole selection process was vitiated.

7. Surprisingly, the reasons which the petitioners had given in their reply to the RTI had no foundation, the same being that there were some defects in the 'Papers' of these respondents and the said reasons also are found to be non-existent as is evident from the stand taken by the petitioners in their reply to the OA and the present Writ Petition.

8. In the background of these facts the learned Tribunal is correct in observing that these respondents were selected by the duly appointed selection committee and their selection was made after a due process and therefore, their termination on the vague ground given by the petitioners was a decision totally illegal and unwarranted. In so far as the stand taken by the petitioners that selection process of these respondents was irregular

and these respondents were beneficiaries of the same, the learned Tribunal has left it open to the petitioners to take the appropriate action as per law. We hardly find any tangible ground to take a different view than the one taken by the learned Tribunal.

9. We find no merit in the Present Writ Petition and the same is hereby dismissed.

10. We accordingly, uphold the order passed by the learned Tribunal and direct the petitioners to comply with the direction given by the learned Tribunal within a period of two months from the date of this order.

KAILASH GAMBHIR, J.

I.S. MEHTA, J.

MAY 15, 2015

Pkb/v