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

Date of Decision: December 17, 2015

+ W.P.(C) 3397/2001

RAM SANJIVAN & ORS. Petitioners

Through: Mr. Y.S. Chauhan, Advocate

versus

DELHI POLICE PUBLIC SCHOOL & ORS. Respondents

Through: Ms. Nikhita Kher, Ms. Nidhi

Raman & Mr. Khan, Advocates for
respondents No.3 & 4

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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This writ petition is filed by two petitioners, who claim that they were employed as *Helper and Mali* by the respondent- School on 2nd November, 1996 and 14th June, 1995 respectively. Petitioners claim to be in regular employment of respondent-School since then and seek regularization of their services. Although, order of 2nd May, 2001 (*Annexure P-3*) passed by the respondent-School is on record but there is no specific challenge to it. However, a direction is sought to respondents to not to terminate the services of petitioners. Whereas, vide order of 2nd May, 2001 (*Annexure P-3*), the service of petitioner –*Ram Sanjivan* was dispensed with on 1st May, 2001 with immediate effect and the post of Helper stood abolished by the Managing Committee of respondent-

School. While entertaining this writ petition, it was noticed that service of first petitioner stood terminated and it was directed that the said termination would be subject to decision of this writ petition.

In respect of respondent No.2, it was directed vide interim order of 23rd August, 2001 that service of petitioner No.2 shall not be disturbed without the leave of the Court.

At the final hearing of this petition, Court Notice was sent to counsel for respondents No.1 & 2, who was duly served but none appears on their behalf.

At the hearing, learned counsel for petitioners submitted that petitioners had been working against permanent posts and have uninterruptedly worked up to eight years and so, in view of decision of a Constitution Bench of Apex Court in *Secretary, State of Karnataka & ors. Vs. Uma Devi & ors.* AIR 2006 SC 1806 and decision of a Division Bench of this Court of 7th July, 2006 in L.P.A. 535/2001 *Smt. Darshan & ors. Vs. Delhi Police Public School & ors.*, service of petitioners deserve to be regularized and once it is so done, then even if post of Helper is abolished in the year 2001, then the case of first petitioner ought to be considered for absorption.

During the course of hearing, learned counsel for petitioners had apprised this Court that although rejoinder to the counter filed by first and second respondent is on record but he does not have copy of counter filed by respondents No.1 & 2. Even from the record, it is not evident as to whether counter affidavit was ever filed by respondents No.1 & 2. In such peculiar situation, it is deemed appropriate to direct first respondent to treat this writ petition as a Representation and to decide it within a period

of twelve weeks in the light of decisions in *Secretary, State of Karnataka & ors. Vs. Uma Devi & ors.* and *Smt. Darshan & ors. Vs. Delhi Police Public School & ors., (Supra)* by passing a speaking order and the fate of the Representation be communicated to petitioners within a week thereafter, so that they may avail of the remedies available to them, if need be. It is made clear that in case first petitioner is found eligible for regularization of services, then his case for absorption be also considered by the first respondent-School.

With aforesaid directions, this petition is disposed of while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

DECEMBER 17, 2015

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