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

+ LPA 347/2015

ARMY WELFARE EDUCATION
SOCIETY & ANR

..... Appellants

Represented by: Mr.Ankur Chhibber, Advocate

versus

RAVI KUMAR & ANR

..... Respondents

Represented by: Mr.M.A.Niyazi, Advocate with
Ms.Anamika Niyazi, Advocate for
R-1/review petitioner
Mr.Shatrajit Banerji, Advocate for
Mr.Gautam Narayan, Advocate for
R-2
Mr.Anil Kumar, Assistant Pairvy
Officer, Directorate of Education

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **26.02.2016**

R.P.No.539/2015

1. A batch of appeals were disposed of by us on October 29, 2015. We had found that the appellant had been violating the provisions of the Delhi School Education Act, 1973 and the Rules made thereunder with impunity. We had held that notwithstanding the appellant being entitled to prescribe a mode and manner of selection of employees, but since schools established

by it were recognized under the Delhi School Education Act, 1973 and the Rules framed thereunder, appellants would be obliged to follow the mandate of Rule 96 as also Rule 105 of the Delhi School Education Rules.

2. Thereafter we had considered individual cases and such where appointment had continued either on temporary or ad-hoc or contractual for years together, decision of the learned Single Judge was upheld that these employees should be regularized.

3. We are informed that the appellant challenged our decision before the Supreme Court concerning such employees whose services were regularized and the challenge has failed.

4. As regards Ravi Kumar, the respondent in the appeal and the review petitioner, we had allowed the appeal filed by the appellant and the reason is para 23 of the our decision dated October 29, 2015, review whereof is prayed for. It reads as under:-

“23. Ravi Kumar was appointed as a Computer Laboratory Helper/Attendant on May 14, 2013 and his services were continued till September 30, 2015. As per the appellant there is no sanctioned post of a Computer Laboratory Helper/Attendant. Ravi Kumar has not given any proof of a sanctioned post of a Computer Laboratory Helper/Attendant and keeping this in mind as also the fact that he worked on contract for only two years and when he was appointed the process of selection was not followed. We hold against him and in favour of the appellants.”

5. Seeking review it has been brought to our notice there is an error apparent on the face of the record for the reason Ravi Kumar had been working since August 01, 2010 and not May 14, 2013. This fact is apparent from page 82 and 84 of the appeal record which shows that Ravi Kumar had

worked from August 01, 2010 till April 30, 2010 and thereafter with effect from the very next date being May 01, 2010 till July 28, 2010. With a break of three days he rejoined on August 01, 2011 and worked till October 28, 2011. With a break of three days he rejoined on November 01, 2011 and worked till January 28, 2012. With a break of three days he joined on February 01, 2012 and worked till May 29, 2012 till April 29, 2012. With a break of around 16 days he rejoined on May 14, 2013 and his services continued till April 30, 2015, before which date he had obtained a stay from the learned Single Judge and on the strength whereof he continued to work.

6. As regards this Bench observing that Ravi Kumar had not given proof of there being a sanctioned post of a Computer Laboratory Helper/Attendant, along with the review application appointment and confirmation orders concerning one Kuldeep Singh and Anil Kumar have been filed which show that the two were appointed and were placed in the pay scale ₹2610-3150. In the reply filed to the review application the issue has been dodged by the appellant by pleading that the services of the two were thereafter discontinued. This is irrelevant for the reason orders concerning said two persons show that the post of Computer Laboratory Helper/Attendant is available.

7. The review petition is allowed. LPA No.347/2015 concerning respondent No.1 Ravi Kumar is also dismissed and this would mean that para 26 of the order under review wherein we have recorded that LPA No.347/2015 is allowed and as a result writ petition filed by Ravi Kumar is dismissed, is set aside. The impugned order passed by the learned Single Judge qua Ravi Kumar is upheld.

8. No costs.

CM Nos.26058-59/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

FEBRUARY 26, 2016

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