

\$~9

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

+ **W.P.(C) 4700/2016 & CM No.19624/2016**

MOHIT MAHAJAN

..... Petitioner

Through : Mr. Pradeep Gupta, Ms. Mansi Gupta
and Mr. Pranav Gupta, Advocates
with petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Vijay Joshi with Mr. Arun Kumar,
Advocates for R-1 to 3.

Mr. Sanjeev Sindhwani, Sr. Advocate with
Mr. Rahul Narayan and Mr. S. Goel, Advocates
for R-4/FITT with Mr. S.N. Tiwari, AR (Legal).

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

24.05.2016

%

1. Half way through the arguments being addressed by Mr. Pradeep Gupta, Advocate, the petitioner, who is present in Court, states that he may be permitted to discharge his counsel and address arguments himself. Leave, as prayed for, is granted. Learned counsel is discharged.
2. The present petition has been filed by the petitioner praying *inter alia* for issuing a writ of prohibition, restraining the respondent No.4/FITT from terminating his services during the pendency of his complaint filed before the Court of Chief Commissioner for Persons with Disabilities (hereinafter referred to as 'the Chief Commissioner') and in the event the verdict is

against him, for restraining the said respondent from terminating his services for a period of two weeks to enable him to approach the High Court for suitable relief.

3. As per the documents placed on record, this is the third round of litigation initiated by the petitioner. Initially, the petitioner had filed WP(C)No.749/2014, stating *inter alia* that he had approached the Court of the Chief Commissioner for Persons with Disabilities with a grievance against the respondent No.4/FITT, Delhi, with regard to a claim under Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (in short '**the Act**') and for seeking an interim order to the effect that the respondents be restrained from dispensing his service during the pendency of the said petition.

4. A consent order dated 10.3.2014 was passed in the captioned petition, wherein it was recorded that the matter should be remanded to the Commissioner for Persons with Disabilities for deciding the petition and in the meantime, the interim order dated 31.1.2014, restraining the respondent No.4 from dispensing with the services of the petitioner, was agreed to be continued for a period of two weeks in the event the petitioner suffers an adverse order.

5. Thereafter, vide order dated 2.12.2014, the petitioner's complaint was disposed of by the Chief Commissioner with an observation that the respondent No.4 did not fall under Section 2(k) of the Act as it is not an establishment and further, even if it is presumed that the respondent No.3 is an establishment defined under the aforesaid provision, the petitioner did not have the protection of Section 47 of the Act as he was discharging his services purely on a contractual basis, in terms of the contract of service

duly executed by him.

6. Aggrieved by the aforesaid order, the petitioner had filed WP(C) No.8947/2014, which was disposed of by a consent order dated 27.5.2015, wherein it was recorded that both the parties had stated that they had amicably arrived at a compromise, whereunder a fresh contract was entered into between the petitioner and the respondent No.4.

7. The Court is informed that under the aforesaid Contract, the petitioner was engaged by the respondent No.4 for a period of one year, which was renewable at the option of the respondent No.4, depending on his performance, conduct and integrity. It is an admitted position that the period of one year shall expire on 26.5.2016, i.e., day after tomorrow.

8. After a period of eight months, the petitioner has filed a fresh complaint against the respondent No.4 with the Chief Commissioner for Persons with Disabilities praying *inter alia* for permission to continue working on his originally appointed post, i.e., Technology Transfer and IPR with a reasonable accommodation and for providing a conducive environment to differently abled persons. Lastly, the petitioner has sought directions that his services be renewed and continued.

9. The Court is informed that the date earlier fixed in respect of the petitioner's complaint before the Chief Commissioner was 3.6.2016. However, the same has now been advanced to 25.5.2016, i.e, tomorrow.

10. In the given facts and circumstances, this Court is not inclined to restrain the respondent No.4/FITT from terminating the petitioner's services as the contract executed between the parties itself states that the same is valid for a period of one year and renewal thereof is optional at the discretion of the respondent No.4.

11. At this stage, the petitioner submits that it may be clarified that if he is aggrieved by the order that may be passed by the Chief Commissioner, he would be entitled to seek his remedies against the same.
12. The aforesaid right is inherent in the petitioner. If the petitioner is aggrieved by the order that may be passed by the Chief Commissioner, he shall be entitled to seek his remedies, as may be available to him in law.
13. The writ petition is disposed of, along with the pending application.

HIMA KOHLI, J

MAY 24, 2016

sk/rkb