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

+ **W.P.(C) 6258/2016, CM No.25621/2016**

G. RAJATHA

..... Petitioner

Through: Mr. Jaimon Andrews, Adv. with Mr.
N.P. Rakeesh Panicker, Adv.

versus

THE RESIDENT COMMISSIONER, KERALA HOUSE & ORS.

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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22.07.2016

CM No.25621/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6258/2016

1. This is a second round of litigation by the petitioner, inasmuch as earlier, the petitioner had filed W.P.(C) No.2633/2015 wherein, she had sought the following prayers:-

“(i) issue a writ of Mandamus or any other appropriate writ, order or direction, directing the respondents to make recruitments and appointments in Kerala House, New Delhi, through Kerala Public Service Commission;

(ii) Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the respondent Nos. 1, 2 and 3 not to regularize employees working on daily wage basis or

temporary basis in Kerala House, New Delhi from Ext.P1 list or from any other list;

(iii) Issue a writ of Mandamus or any other appropriate writ order or direction, directing the respondent No.1 to make daily wages/ad-hoc appointments in case of necessity only through Employment Exchange;

(iv) Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the, respondents to consider and dispose of Annexure- 'P-9', Annexure- 'P-11' and Annexure-'P-12', duty giving appointment to the petitioner in accordance with Annexure 'P-4' G.O and in compliance with the-reservation policy;

(v) To declare that the employment in Kerala House, New Delhi is public employment and all citizens are entitled to get equal opportunity in getting employment in Kerala , House, New Delhi in accordance with the reservation policy.”

2. The said petition was decided by this Court, wherein, reliance was placed by the respondents on Government Order dated June 20, 2013. It was, inter-alia concluded by the Court that the department would be within its right to regulate recruitment by Government Order. The order of this Court was challenged by the petitioner in an Appeal vide LPA No.834/2015, which was allowed to be withdrawn with liberty to challenge the said order i.e June 20, 2013 by availing appropriate remedy under the law. It was also

made clear by the Appellate Court that the liberty has been granted, but same is without prejudice to the rights and contentions of the respondents regarding maintainability of such proceedings.

3. In this writ petition, the prayers made are the following:-

“a) Issue a Writ in the nature of Mandamus or any other appropriate order or writ or direction to quash the Government Order, GO (MS) No. 180/2013/GAD, dated 20.06.2013; and

b) Issue an appropriate Writ or Order directing the Respondents not to regularize employees working on daily wage basis or temporary basis in Kerala House, New Delhi from Annexure-P1 list; and

c) Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondents to consider and dispose of Annexure-P7, Annexure-P9 and Annexure-P10, duly giving appointment to the Petitioner in accordance with Annexure P2 GO and in compliance with the reservation policy;

d) To declare that the employment in Kerala House, New Delhi is public employment and all citizens are entitled to get equal opportunity in getting employment in Kerala House in accordance with reservation policy;

e) Issue such other appropriate writ, order or direction that this Honourable Court may deem fit and proper in the circumstance of the case.”

4. Even though, different prayers have been made, the substantive prayer is to quash the order dated June 20, 2013. It is the submission of the learned counsel for the petitioner that the said order has been issued only to regularise back door appointments made by the respondents. Such a submission is not tenable in law, when such appointments have not been challenged. That apart, as has been held in the W.P.(C) No.2633/2015 that department is within its right to regulate the recruitment, no contention has been advanced, disputing the said proposition of law. It appears, the grievance of the petitioner is also that, earlier the post of Telephone Operator (in the year 2004) was being filled by way of a direct recruitment and not by promotion as is being made now in terms of order dated 20th June, 2013. The said contention is also not tenable merely because, earlier, the appointment to the post of Telephone Operator was being made by direct recruitment, the respondents are not precluded to amend/vary a particular recruitment rule to suit their requirement. As the issue related to order dated June 20, 2013 stood settled in the W.P.(C) No.2633/2015. I do not see any merit in the challenge to the order dated June 20, 2013. The petition is dismissed.

V. KAMESWAR RAO, J

JULY 22, 2016/ak