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

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Judgment delivered on: 01.08.2016

+ W.P.(C) 7482/2014 and CM No.17710/2014

COL. K.S. MEHTA

..... Petitioner

versus

UNION OF INDIA & ANR.

.... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr.S.M.Dalal, Advocate

For the Respondents : Mr.Arun Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA J. (ORAL)

1. The petitioner has filed the present petition seeking restraint on respondent No.2 from disturbing and dis-empanelling the petitioner's ongoing sponsorship till he attains the age of 65 years as provided under the Rules. The petitioner turns 65 on 29.09.2016.

2. The petitioner relies on instructions for functioning of DGR Empanelled Ex-servicemen Security Safety & Fire Protection Management Agencies and, particularly, the sponsorship norms stipulated therein to contend that the sponsorship which is to be initially for a period of two years is extendable for another period of two years.

3. It is contended that the petitioner was empanelled on 13.4.2011 and was sponsored on 31.7.2013 for a period of two years. The petitioner was awarded a contract by Power Grid Corporation of India Limited. There is a discrepancy in the period of contract mentioned in the letter of award dated 28.11.2013. The said clause reads as under:

“The period of contract shall be of two years duration commencing w.e.f. 01.12.2013 to 30.11.2014.”

4. The contention of the learned counsel for the petitioner is that the period of contract was till 30.11.2015 and on account of a typographical error in the figures "2014" has been mentioned whereas in words the period mentioned is "two years" commencing with effect from 01.12.2013.

5. On 5.11.2014 while issuing notice, this Court had directed that the respondent shall maintain status quo as to the ongoing sponsorship to the petitioner. Interim orders have been continued from time to time.

6. Learned counsel for the respondents submits that the petitioner was entitled to sponsorship initially for a period of two years which period was the extendable by a further period of two years on receipt of satisfactory performance certificate from the principal employer. It is submitted that no such certificate has been received by the respondents. It is further submitted that the principal employer, i.e., Power Grid Corporation of India Limited had intimated the respondents that the agreement was for a period of one year and ended on 31.11.2014. It is submitted that the petitioner has been continuing solely on account of interim orders granted by this Court.

7. Learned counsel for the respondent relies on the Office Memorandum

dated 16.1.2013 to contend that the original Office Memorandum 2006 has been modified and the security agencies empanelled prior to 09.07.2012 are to be governed by the old rule of 63 years of age/cumulative quota of 300 guards whichever is earlier. It is submitted that the petitioner has already attained the age of 63 years and, accordingly, is not entitled to further empanelment or sponsorship. He further submits that since the petitioner has attained the maximum age as stipulated by Office Memorandum dated 16.01.2013, the petitioner has been dis-empanelled. However, the said order has not been given effect to in view of the interim orders passed by this Court.

8. Learned counsel for the respondent submits that the Public Sector Undertaking, i.e., Power Grid Corporation of India Limited has made a fresh requisition in December, 2015 for sponsorship of another agency which has been done by the respondents. To which, Learned counsel for the petitioner submits that even though the term of the petitioner was extended by Power Grid Corporation of India Limited till 31.05.2016, the new agency sponsored by the respondents has forcefully taken charge on 01.06.2016.

9. Clause 20 (e) relates to sponsorship norms, which reads as under:

“20 (e) Sponsorship will be initially for a period of two years further extendable by another two years, on receipt of satisfactory performance certificate from the Principal Employer. In case the employer makes an agreement for one year the sponsorship will be considered for extension to the second year unless specifically requested otherwise by the principal employer.”

10. Perusal of Clause 20(e) shows that the sponsorship which is initially for a period of two years is further extendable by another two years on the agency producing a satisfactory performance certificate from the Principal Employer. In the present case, there is no such certificate which is either placed on record or supplied to the respondent.

11. The petitioner has admittedly attained the age of 63 years. As per the Office Memorandum dated 16.01.2013, the sponsorship is to continue till the Director attains the age of 63 years or cumulative quota of 300 guards is achieved, whichever is earlier. Since, conditions are in the alternative and the earlier is to prevail, the contention of the petitioner that the petitioner has not attached the cumulative quota of 300 is of no consequence inasmuch as the Director of petitioner has already attained the age of 63 years. The petitioner has been continuing on account of interim orders passed by this Court.

12. The contention of the petitioner that the contract with Power Grid Corporation of India Limited was for a period of two years till 30.11.2015 and not till 30.11.2014 is, in the present facts, is also not relevant as both the dates are now over and the petitioner has continued till the later of the two.

13. Further contention of the Learned counsel for the petitioner that the fact that the principal employer has already extended the contract shows that the principal employer is satisfied with the performance of the petitioner, has no merit. The requirement of the clause is that certificate of satisfactory performance should have been received from the principal employer. admittedly, there is no such certificate available.

14. In view of the fact that the petitioner has already attained the maximum age permissible and has further not produced satisfactory performance certificate from the principal employer, I find no merit in the petition. The writ petition is dismissed. Interim orders are vacated.

15. Without going into the controversy of handing over of charge, it is directed that the petitioner shall formally hand over the charge to the new agency, if not, already done so.

AUGUST 01, 2016
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SANJEEV SACHDEVA, J

