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

*Judgment dated: 25<sup>th</sup> July, 2016*

+ **W.P.(C) 9599/2015**

**SANJAY KUMAR & ORS**

..... Petitioners

Through: Ms.Jyoti singh, Senior Advocate with  
Mr.Sameer Sharma and Mr.Manish  
Goyal, Advocates

versus

**rites LTD. & ANR**

..... Respondents

Through: Mr.R.K.Saini and Ms.Minal Sehgal,  
Advocates with Mr. P.K.Arora,  
(AGM(P))

**CORAM:**

**HON'BLE MR. JUSTICE G.S.SISTANI**

**HON'BLE MR. JUSTICE I.S.MEHTA**

**G.S.SISTANI, J (ORAL)**

**CM No.26215/2016 (for filing additional document)**

This is an application filed by the petitioners to place an additional document on record which could not be filed due to inadvertence.

Notice. Mr.R.K.Saini, Advocate, accepts notice on behalf of the respondents.

Heard.

The application is allowed.

**W.P.(C) 9599/2015**

1. The challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 30<sup>th</sup> March, 2015 by which the OA filed by the petitioners was rejected.

2. Some facts which are required to be noticed for the disposal of this petition are that the petitioners were working as Economists and Statistician on contract basis with the respondents since the year 2007. Their services continued till the process of their regularisation commenced when a test was held by the respondents on 28<sup>th</sup> June, 2014. Thereafter the petitioners were called for an interview. It would also be relevant to note that the respondents had considered their case for regularisation favourably and, in fact, a copy of the file note, placed on record, would show that the Director had noted on 17<sup>th</sup> September, 2014 as under:

*“regularisation orders for other three at serial Nos. 2, 3 and 4 on np-18 may be issued*

*Signed*

*17.9.2014*

*AGM(P)/Rectt”*

3. However, further process for regularization was derailed when the CMD made the following note on 14<sup>th</sup> October, 2015:-

*“I am concerned with the present business flow in this unit. Regularisation be put on hold.*

*DP may please re-examine the sustainability of these posts as regular positions.”*

4. Apprehending that their contract would not be extended, the petitioners approached the Central Administrative Tribunal. OA No.3792/2014 was filed. By an order dated 3<sup>rd</sup> November, 2014, interim protection was granted to the petitioners and they continued to work till the OA was finally decided. In the order dated 3<sup>rd</sup> November, 2014 while granting stay, it was noticed as under:

*“intention of the CMD was only not to regularise the service of the applicants immediately but he never ordered cancellation of their selection as done by the respondents.”*

5. The trouble of the petitioners actually started when based on the interim order an affidavit was filed by the respondents before the Central Administrative Tribunal that it would not be viable for the respondents to regularise the petitioners. Based on the affidavit, the Tribunal rejected the OA.

6. After some hearing in the matter, Mr.R.K.Saini, learned counsel for the respondents submits that the prayer made by the present petitioners in the writ petition cannot be considered as the order passed by the respondents for not regularising the petitioners was not challenged before the Tribunal. Ms.Jyoti Singh, learned Senior Counsel for the petitioners submits that in fact an application seeking amendment to the OA was filed on 23<sup>rd</sup> December, 2015 and the prayer made therein was allowed. Mr.R.K.Saini, learned counsel for the respondents submits that even after the amendment no prayer for quashing of the final order was made and thus in the absence of the petitioners having laid challenge to their terms not being extended and regularisation being rejected, no relief can be granted to the petitioners in these proceeding to adjudicate upon the matter.

7. At this stage, learned senior counsel for the petitioners upon instructions from the petitioners seeks permission to withdraw this petition with leave to challenge the order by which the regularisation has been declined on the ground that the posts have been abolished. It is agreed that petitioners would be at liberty to raise all grounds as available to the petitioners including grounds which have been raised in this writ petition. Mr.R.K.Saini, learned counsel for the respondents, also very fairly states that

should the petitioners approach the Central Administrative Tribunal within four weeks, he would not raise the plea of limitation.

8. With these directions, the writ petition is disposed of.

**G.S.SISTANI**  
(JUDGE)

**I.S. MEHTA**  
(JUDGE)

**JULY 25, 2016/sv**

