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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6716/2017, CM Nos. 27966-27967/2017**
HARISH CHANDER

..... Petitioner

Through: Mr. Sunil Tiwari, Adv. with Mr. Amit
Saini, Adv.

versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Sanjeev Uniyal, Adv. with Mr.
Dhawal Uniyal, Adv. for R-1/UOI
Mr. Mohinder J.S. Rupal, Adv. with
Mr. Prang Newmai, Adv. for
University of Delhi

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **04.08.2017**

CM No. 27967/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6716/2017

1. The present petition has been filed by the petitioner with the following prayers:-

“It is, therefore, most respectfully prayed that this Hon’ble Court may kindly be pleased to:

a) issue an appropriate writ of mandamus or any other appropriate writ order or directions as this Hon’ble Court may deem fit and proper and to set aside the memorandum dated 25/01/2017 thereby directing the respondents to reinstate the

petitioner on his job with continuity of service and all other benefit of ad-hoc basis or in the alternative petitioner may be reinstated on his job as a temporary employee;

b) Award cost of the petition in favour of the petitioner and against the respondents and

Any other order or further relief which this Hon'ble Court may deem fit and proper may also be passed in favour of the petitioner."

2. It is the case of the petitioner that he was appointed as a Sweeper on ad-hoc basis on April 04, 1991 for six months. Thereafter, he was reappointed for another four months with effect from October 09, 1991. He was reappointed vide order dated February 11, 1992 and the ad-hoc appointments kept continuing and the last one being on September 01, 2000.

3. It is noted that the petitioner had earlier filed a writ petition being W.P.(C) No. 6941/2000, wherein he had sought regularization of his services. The said writ petition was dismissed by this Court vide its judgment dated December 19, 2016. Pursuant to the dismissal of the writ petition, the impugned order dated January 25, 2017 was issued whereby the petitioner's ad-hoc appointment was terminated with immediate effect.

4. Learned counsel for the petitioner, in support of his contention would submit that the respondent No.3 has not given any reasons for terminating the ad-hoc appointment of the petitioner. He would rely upon the judgments of this Court in the case of ***Harish Kumar v. Registrar, Delhi High Court &***

Anr. 41 (1990) DLT 130 and Abhinav Chaudhary & Ors v. Delhi Technological University & Anr W.P.(C) No. 3512/2014 and connected writ petition decided on January 20, 2015 in support of his contention.

5. There is no dispute that the petitioner's claim for regularization was rejected by this Court. There is also no dispute that the appointment of the petitioner from time to time has been on ad-hoc basis. It is settled law, an ad-hoc appointee has no right to continue on the post in perpetuity. It is also not the case of the petitioner that the services of the petitioner have been terminated retaining the juniors. The impugned order has been rightly issued.

6. Insofar as the judgments as relied upon by the learned counsel for the petitioner are concerned, in ***Harish Kumar (supra)***, the reliance placed on para 8 of the judgment, this Court has deprecated the Policy of ad-hocism resulting in 'hire and fire'. Suffice to state, this judgment would not be of any help to the petitioner as the respondents vide the impugned order had terminated the ad-hocism.

7. Insofar as the judgment relied upon by the learned counsel for the petitioner in the case of ***Abhinav Chaudhary and Ors (supra)*** on para 3 is concerned, this Court has referred to the judgment of the Supreme Court in

the case of *Mohd. Abdul Kadir and Anr v. Director General of Police, Assam and Ors. (2009) 6 SCC 611* wherein, the Supreme Court held a person appointed on ad-hoc basis under a Scheme should be continued as long as the Scheme continues. In other words, the process of termination and reappointment every year, should be avoided and the appellants therein should be continued as long as the Scheme continues but purely on ad-hoc and temporary basis co-terminus with the Scheme. This judgment also is of no help to the petitioner. It is not the case of the petitioner, that his appointment is under a Scheme. That apart, the respondent No.2 therein was resorting to ad-hocism, leading to hire and fire and it is not the case of the petitioner, he is being replaced by fresh hands. Further, the present claim of the petitioner would also be barred by constructive res-judicata, as the petitioner was within his right to seek his continuance on ad-hoc basis when he filed the earlier writ petition. Be that as it may, as an ad-hoc appointee he has no right to hold the post in perpetuity, the present petition is without any merit. The same is dismissed.

CM No. 27966/2017 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

AUGUST 04, 2017/ak