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

+ **W.P.(C) 5715/2017**

**THE SECRETARY, MINISTRY OF HEALTH AND
FAMILY WELFARE & ORS**

..... Petitioners

Through: Mr. Ravi Sikri, Senior Advocate
along with Mr. Deepank Yadav,
Advocate.

versus

SHRI KHAGESWAR PADHAN & ORS

..... Respondents

Through: Mr. A.K. Behera & Mr. A.P. Singh,
Advocates for caveator/ respondents.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

11.07.2017

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Caveat No.619/2017

1. Learned counsel for the caveator has put in appearance.
2. Accordingly, the caveat stands discharged.

C.M. No. 23849/2017

3. The list of dates filed on record is taken on record.
4. The application stands disposed of.

C.M. No. 23847/2017

5. The additional documents filed by the petitioners are taken on record.
6. The application stands disposed of.

W.P.(C) 5715/2017 and C.M. No. 23848/2017

7. The petitioners have preferred the present writ petition to assail the order dated 08.12.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.2358/2015.

8. The respondents/ applicants in the said Original Application, who are 24 in number, had preferred the said Original Application to seek the relief of regularisation of their services with the respondent National Institute of Malaria Research, Rourkela, Orissa, under IDVC Project.

9. They are working in various capacities such as Assistant Research Scientist, Health Educator, Laboratory Technician, LDC, Insect Collector, Field Worker, Driver, Field Laboratory Attendant, Chowkidar, Safai Karmachari, etc., in the National Institute of Malaria Research, Rourkela, Orissa. As per the letter dated 19.10.2012, IDVC Project is one of the Science & Technology Mission's Project which were identified in 1985-86 under the advice of the then Scientific Advisor to the Hon'ble Prime Minister. This project was initially sanctioned for the Seventh Plan period with 342 posts carrying different running pay scales under the administrative control of National Institute of Malaria Research (in short, NIMR), vide Planning Commission letter dated 02.06.1986. Since then, considering the importance and need of the research input to the National Vector Borne Disease Control Program (in short, NVBDCP) of Government of India, the Project has been extended from time to time and it is still continuing in NIMR as long term extra-mural project of ICMR. The employees of IDVC project are posted in NIMR Headquarter, New Delhi and 10 Field Units are

also located in different parts of the country. All the respondents had been recruited by following the relevant Recruitment Rules and after proper advertisement published in Employment News/Newspapers and, their names were sponsored by Employment Exchange followed by Interview conducted by the duly constituted Selection Committee. Accordingly, they were appointed against the posts sanctioned by the Director General, ICMR, vide letter dated 19.10.2012 read with letter dated 12.11.2014. Further, the Recruitment Rules for both NIMR and IDVC Project employees are same as per the file notings dated 13.05.2010 of NIMR, including the terms and conditions of service as well as mode of recruitment of the employees posted in different units. All the applicants, who were appointed during 1986 and 1990, have already completed 25 to 29 years of service in the IDVC Project. The aforesaid facts have been narrated in the impugned order, and are not under dispute.

10. The respondent applicants premised their claim on several earlier decisions taken note of by the Tribunal in the impugned order. The Tribunal followed its earlier decision in OA No.1115/2009 decided on 26.08.2010 by the Madras Bench.

11. The writ petition filed by the petitioners herein before the Madras High Court being W.P. (C) No. 22609/2011 was dismissed by the said High Court on 19.03.2012, and the Special Leave Petition being SLP (Civil) No.24889/2012 against the order of the Madras High Court was also dismissed on 10.09.2012.

12. The said decision was implemented by the petitioners vide office

order dated 23.04.2013 in respect of 14 employees of IDVC Field Unit, Chennai with effect from the dates of their initial appointment by creating 14 posts in compliance of the aforesaid orders.

13. Since the said decision was not universally applied in respect of similarly situated employees, the Malaria Research Centre Employees Welfare Association filed W.P. (C) No.1554/2003 before this Court, which was allowed vide order dated 20.03.2013. The Division Bench of this Court followed the decision of the Madras High Court taken note of hereinabove. Even the Special Leave Petition preferred from the said decision was dismissed in SLP (Civil) No.14859/2014 on 15.09.2014.

14. Despite the aforesaid decision, the writ petitioner chose not to implement the said decisions in respect of several other similarly situated employees. The explanation therefor given by the writ petitioner is that the direction of this Court while disposing of the W.P. (C.) No.1554/2003 was that the same shall govern all project employees, who were members of the first petitioner, i.e. the Association. Since the respondents herein were not members of the Association, they were not granted the same relief though, undisputedly, they are identically placed.

15. Pertinently, the Jabalpur Bench of the Tribunal has also taken the same view in O.A. No.129/2011 decided on 03.10.2013 and directed regularisation of the applicants before it. The said decision has been taken note of by the Tribunal in the impugned order.

16. Learned counsel for the respondent caveators has tendered in Court a decision of the Madhya Pradesh High Court at Jabalpur rendered in W.P.

(C.) No. 9660/2014 upholding the decision of the Jabalpur Bench of the Tribunal.

17. In the face of the aforesaid pronouncements, we fail to appreciate the stubborn attitude shown by the writ petitioners in again and again assailing the same judgments being rendered by the Tribunals and Courts. This attitude causes avoidable drain on the public exchequer as well as on the time of this Court. It has also subjected the deserving employees to unnecessary harassment and expense. We deprecate this practice.

18. Accordingly, the writ petition is dismissed - being without any merit, with costs of Rs.25,000/-. The costs be paid to the Delhi Legal Services Authority within three weeks. It shall be open to the petitioners to recover the costs from the concerned officer/ authority who is responsible in taking the decision for filing the present writ petition.

19. We hope and expect that the petitioners shall implement the decisions rendered by the several Courts and Tribunals taken note of hereinabove universally in respect of all the remaining similarly placed employees, so that parity is maintained in respect of all such employees. The experience of the Court has been that discriminatory implementation of decisions of this kind leads to all kinds of complications and gives rise to further litigations.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 11, 2017

B.S. Rohella