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

+ **W.P.(C) 843/2018 and CM APPL. 3592-3594/2018**

BIRJESH KUMAR AND ORS Petitioners
Through: Mr. Anand Nandan, Advocate

versus

P.K. GUPTA AND ORS Respondents
Through: None

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
30.01.2018

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1. The petitioners are aggrieved by an order dated 20.01.2017 passed by the Tribunal in a contempt petition filed by them arising out of O.A. No.4088/2012, that was disposed of by recording the statement of the counsel for the respondents/NrDMC that out of six petitioners, the services of three petitioners, namely, petitioners No.2, 4 and 6 were continued on a contract basis and in respect of the remaining three petitioners No.1, 3 and 5, the respondents had expressed their readiness and willingness to engage them on contract basis, if they would approach the authorities for issuance of such a contract. While recording the aforesaid statement made by the counsel for the respondents/NrDMC, the contempt petition filed by the petitioners was disposed of on 20.1.2017, with liberty granted to petitioners No.1, 3 and 5 to approach the respondents for seeking appointment on a contractual basis, with a rider that they would be allowed to join on

furnishing an undertaking that they would not claim regularisation. Aggrieved by the last part of the observations made in the order dated 20.01.2017, the petitioners have filed the present petition.

2. Mr. Nandan, learned counsel for the petitioners states that the directions issued by the Tribunal, allowing the petitioners to join on a contractual basis on furnishing an undertaking that they will not claim regularisation runs contrary to the interim order dated 28.11.2014, passed by the Tribunal in a Misc. Application filed by the petitioners in O.A. No.4088/2012. He submits that vide order dated 28.11.2014, the respondents were directed to permit the petitioners to continue their services on a contractual basis without insisting that they furnish an undertaking to the effect that they shall not claim regularisation. He states that the said order has been completely overlooked by the Tribunal in the impugned order.

3. What learned counsel for the petitioners has conveniently failed to point out is that the captioned O.A. was finally disposed of by the Tribunal vide judgment dated 06.08.2015, wherein the observations made on 28.11.2014 do not find mention. On perusing the judgment dated 06.08.2015, it transpires that the O.A. filed by the petitioners was disposed of by the Tribunal without going into the merits of the case, by simply directing the respondents to consider the case of the petitioners for regularisation of their services in terms of the judgment of the High Court in **W.P.(C) 6798/2002** entitled Sonia Gandhi and Ors. vs. Govt. of NCT of Delhi, decided on 06.11.2013. Further, it was directed that if Nr.D.M.C. fills up the vacancies of Cattle Catchers on a regular basis, then the cases of the petitioners shall also be considered alongwith others, by giving them

adequate age relaxation. The timeline given to Nr.D.M.C. to make compliances was four months, which they had exhausted without taking timely action and aggrieved thereby, the petitioners had filed a contempt petition that has been disposed of by the impugned order dated 20.01.2017.

4. Having regard to the fact that the judgment dated 06.08.2015 has not been challenged by any of the petitioners on the ground that the directions issued in the interim order dated 28.11.2014 do not find any mention therein, it has to be held that the said judgment has attained finality and a conscious decision was taken by the Tribunal not to incorporate the interim order passed on 28.11.2014, in the final judgment. Given the above positions, we do not see any justification for interfering in the impugned order dated 20.01.2017, passed by the Tribunal, disposing of the contempt petition filed by the petitioners.

5. The petition is dismissed *in limine* alongwith the interim applications.

HIMA KOHLI, J

REKHA PALLI, J

JANUARY 30, 2018

rkb/na/sk