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

% *Date of decision: 12th September, 2018*

+ W.P.(C) 9570/2018 & CM No. 37223/2018

SAIYED ZEGHAM MURTAZA Petitioner

Through : Mr. Taranjit Singh, Mr. A.
Khan, Dr. Farrukh Diwan and
Mr. Chandan Datta, Advs.

Versus

RAJYA SABHA SECRETARIAT THROUGH ITS
SECRETARY GENERAL AND ORS. Respondents

Through : Ms. Zubeda Begum and
Ms. Sana Ansari, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

CM No.37223/2018 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 9570/2018

1. The petitioner was appointed as Assistant Producer, Reporter in the Rajya Sabha TV for a period of three years with effect from 19th December, 2011. The appointment was expressly contractual in nature.

2. The said contract of appointment appeared to have been extended year to year. On 30th June, 2018, the petitioner applied for renewal of his contract. However, the contract was not renewed beyond 30th June, 2018, and consequent on completion of the said term, the petitioner was relieved, *vide* order dated 2nd July, 2018.

3. In these circumstances, the petitioner has approached this court in the present proceedings. The prayers in the writ petition read thus:

“1. To issue appropriate Writ/order in nature of Writ of Certiorari, quashing the Order contained in letter bearing reference no.RS.1/5/2012-RSTV/A.Pr./S/Z/M dated 02.07.2018 issued by the respondents, whereby the Respondents, in unjust and arbitrary manner, informed the petitioner that the petitioner has been relieved from his duties in RSTV with effect from the afternoon of 30.06.2018.

2. To issue appropriate Writ order in nature of the Writ of mandamus directing the Respondents to rescind the said letter and to extend the period of employment of the petitioner;

3. Pass such other and future order or orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case; and

4. To award the cost of the petition in favour of the petitioner.”

4. The writ petition pleads legitimate expectation, as a basis, the claim of the petitioner.

5. It is settled, by, inter alia, paras 46 and 47 of the judgment of the Supreme Court in *Secretary, State of Karnataka & Ors. v. Umadevi and Others, (2006) 4 SCC 1* that the doctrine of legitimate

expectation cannot be invoked by contractual employees. The said paras are reproduced below :

“46. Learned Senior Counsel for some of the respondents argued that on the basis of the doctrine of legitimate expectation, the employees, especially of the Commercial Taxes Department, should be directed to be regularised since the decisions in *Dharwad* [(1990) 2 SCC 396 : 1990 SCC (L&S) 274 : (1990) 12 ATC 902 : (1990) 1 SCR 544] , *Piara Singh* [(1992) 4 SCC 118 : 1992 SCC (L&S) 825 : (1992) 21 ATC 403 : (1992) 3 SCR 826] , *Jacob* [*Jacob M. Puthuparambil v. Kerala Water Authority*, (1991) 1 SCC 28 : 1991 SCC (L&S) 25 : (1991) 15 ATC 697] and *Gujarat Agricultural University* [*Gujarat Agricultural University v. Rathod Labhu Bechar*, (2001) 3 SCC 574 : 2001 SCC (L&S) 613] and the like, have given rise to an expectation in them that their services would also be regularised. The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn. [See Lord Diplock in *Council for Civil Services Union v. Minister of Civil Service* [1985 AC 374 : (1984) 3 All ER 935 : (1984) 3 WLR 1174 (HL)] , *National Buildings Construction Corpn. v. S. Raghunathan* [(1998) 7 SCC 66 : 1998 SCC (L&S) 1770] and *Chanchal Goyal (Dr.) v. State of Rajasthan* [(2003) 3 SCC 485 : 2003 SCC (L&S) 322] .] There is no case that any assurance was given by the Government or the department concerned while making the appointment on daily wages that the status conferred on him will not be withdrawn until some rational reason comes into existence for withdrawing it. The very engagement was against the constitutional scheme. Though, the Commissioner of the Commercial Taxes Department sought to get the appointments made permanent, there is no case that at the time of appointment any promise was held out. No such promise could also have been held out in view of the circulars

and directives issued by the Government after *Dharwad decision*[(1990) 2 SCC 396 : 1990 SCC (L&S) 274 : (1990) 12 ATC 902 : (1990) 1 SCR 544] . Though, there is a case that the State had made regularisations in the past of similarly situated employees, the fact remains that such regularisations were done only pursuant to judicial directions, either of the Administrative Tribunal or of the High Court and in some cases by this Court. Moreover, the invocation of the doctrine of legitimate expectation cannot enable the employees to claim that they must be made permanent or they must be regularised in the service though they had not been selected in terms of the rules for appointment. The fact that in certain cases the court had directed regularisation of the employees involved in those cases cannot be made use of to found a claim based on legitimate expectation. The argument if accepted would also run counter to the constitutional mandate. The argument in that behalf has therefore to be rejected.

47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognised by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

6. In view thereof, it is not possible to grant any relief to the petitioner.

7. The writ petition is accordingly dismissed without any order as to costs.

C.HARI SHANKAR, J

SEPTEMBER 12, 2018

