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

+ **W.P.(C) 4396/2019**

NEELAM DHAR AND ORS.

..... Petitioners

Through: Mr. M.K. Bhardwaj, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC
along with Mr. T.P. Singh, Advocate
for respondent/ UOI.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER
26.04.2019

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C.M. No. 19563/2019

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 4396/2019 & CM APPL. 19562/2019

Issue notice. Learned counsel for the respondents accepts notice.

Since the facts in this case are not in dispute and the issue is very narrow, we proceed to dispose of the petition without calling for further reply.

The petitioners assail the order dated 09.04.2019 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/

Tribunal) in O.A. No.3261/2017. The petitioners had preferred the said Original Application to assail the advertisement issued by the respondents to make appointment of Senior Research Fellow and Research Associates on contract basis. The reason for the said challenge was that the petitioners are themselves serving as Senior Research Fellow and Research Associates on contract basis since 2011 in the respondents' organisation. The foundation of their claim is that one set of contractual employees cannot be replaced by another set of contractual employees. The Tribunal has rejected the Original Application on the ground that the petitioners have no inherent right to continue on the post held by them indefinitely since they are serving on contract basis. Reference has been made to the decision of the coordinate bench of the Tribunal at Calcutta in O.A. No.1279/2017 decided on 07.09.2017. The Tribunal has also observed that the petitioners have chosen not to appear in the interview in terms of the advertisement in question and, therefore, they have no right to object to the issuance of the advertisement in question.

The advertisement in question is in respect of a "*Walk-in-Interview*" for engagement of Research Associates and Senior Research Fellows on contract basis by the Directorate of Plant Protection, Quarantine and Storage. The advertisement clearly states that applications are invited for engagement of Research Associates and Senior Research Fellows on purely temporary basis in the Plant Quarantine Division of the Directorate of Plant Protection, Quarantine and Storage, CGO Complex, Faridabad, Haryana. Thus, it is clear that the process sought to be undertaken by the respondents was for making appointments purely on temporary basis, i.e. on contract basis. The apprehension expressed by the petitioners that they may be

replaced by another set of contractual employees is, therefore, well founded. It is well settled in law that one set of contractual employees cannot be replaced by another set of contractual employees. If the respondents were to undertake process of making recruitment on regular basis, it would be an entirely different thing. In our view, the Tribunal has clearly erred in not appreciating this distinction while passing impugned order.

We, therefore, set aside the impugned order and allow the petition. We direct that in case the respondents make any further appointments on contract basis, the petitioners shall not be discontinued from service on that account only.

Petition stands disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 26, 2019

B.S. Rohella