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

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Date of Decision: 8.7.2019

% **W.P.(C.) No. 7187/2019**

RAMESH CHANDER SINGH & ORS.

..... Petitioners

Through: Rana Ranjit Singh, Mr. Vivek Kumar Singh, Ms. Akanksha Singh, Mr. Avnish Kumar Gupta and Mr. Keshav Chaturvedi, Advocates.

Versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Ashwani Bhardwaj, Mr. Jitendra Kr. Tripathi and Mr. Vipul Agrawal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

VIPIN SANGHI, J. (ORAL)

CM No.29925/2019

Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C.) No. 7187/2019

1. The petitioners assail the order dated 11.4.2017 passed by the Central Administrative Tribunal, Principal Bench in O.A. 771/2016. The Tribunal has rejected the said original application preferred by the petitioners wherein they assailed their termination-discontinuation from services by the respondents, and they also sought a direction to the respondents to consider

them for regularization in their services in accordance with law.

2. The petitioners were engaged on daily-wage basis to work as Scorers/Checkers/Openers in respect of public examination held by the respondent-Staff Selection Commission (SSC). The petitioners claimed that suddenly their services were discontinued despite the fact that they had been rendering their services for over a decade. With that grievance they approached the aforesaid Tribunal. The Tribunal has rejected the original application after considering the stand of the respondents. The reasoning adopted by the Tribunal is as follows:-

“15. From the facts that have emerged, it is clear that the SSC require these non-officials Scorers/Openers/Checkers depending on the examinations that have to be held. There is no permanent requirement of such staff. Though the learned counsel for the applicants tried to emphasize that there is enough work for sanction of such posts, we do not suppose we can give any such direction to the respondents to create such posts as it is a policy matter. Moreover as has been explained clearly in the reply, the job is not of a regular nature and only time to time, when examinations are held, these people are engaged for which the respondents form a panel and from that panel they grant passes for two months at a time and assign them work within that two months as and when required. It is also admitted that these people have not been granted temporary status. Thus, the 1993 policy in any case will not apply. But what also emerges is that the respondents do not require permanent posts of Scorers/Openers/Checkers. In fact, they have also clarified in their reply that now they are trying to move on to digital systems which will further not require such staff.”

3. The submission of learned counsel is that petitioners gave the best part of their lives to the respondents, and after their dis-engagement they are not capable of securing any other employment since there would be age barred. He further submits that the SSC requires persons to perform the said jobs, since it conducts public examinations throughout the year.

4. Having considered the petitioners' submissions, perused the

impugned order and the Constitution Bench judgment of the Supreme Court in the case of *Secretary State of Karnataka & Others Vs. Umadevi & Ors. (2006) 4 SCC 1*, we are not inclined to interfere with the impugned order. Admittedly, there are no sanctioned posts for the jobs performed by the petitioners as Scorers/Checkers/Openers. The respondents have stated that petitioners were engaged on daily-wage basis, as and when the occasion arose and whenever their services were required. The stand of the respondents appears to be that on account of computerization they were not required.

5. Counsel for the petitioners has sought to place reliance on an earlier order passed by the Tribunal in a batch of Original Applications including OA No. 1489/1990 decided on 11.2.1992 titled as *Sh. T. Dominic & Ors. Vs. Union of India and Anr.*, to claim that the stand of the respondents has remained unchanged for two decades, and despite the availability of work they have not created sanctioned posts. In our view, this decision is of no avail after the Supreme Court has rendered decision in the Constitution Bench judgment in *Umadevi (supra)*. Moreover, it is not for this Court to direct the respondents to create sanctioned posts in respect of the works performed by the petitioners.

6. Learned counsel for the respondents has lastly submitted that after disengaging the petitioners, the respondents have engaged others to perform the same jobs on daily wages. If that is true, that would be contrary to the decision of the Supreme Court in the case of *State of Haryana & Ors. Vs. Piara Singh & Ors. (1992) 4 SCC 118*, wherein the Supreme Court has held that one set of daily wagers cannot be replaced by another. The respondents

are, therefore, directed to ensure compliance with the decision of the Supreme Court in *State of Haryana & Ors (supra)*, and to consider the claim of the petitioners for re-engagement as daily wagers in respect of the jobs performed by them in preference to others who may have been engaged after discharge of the petitioners.

7. The petition stands disposed of with the aforesaid terms.

VIPIN SANGHI, J.

RAJNISH BHATNAGAR, J.

JULY 08, 2019

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