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

Date of Decision: 29.11.2019

+ **W.P.(C) 12575/2019 & CM Appl. Nos. 51389-92/2019**

SOM DUTT AND ORS. Petitioners
Through : Mr. Anand Nandan and
Mr.Rahit Rajesh, Advocates.

versus

P.K. GUPTA AND ORS. Respondents
Through : Ms. Namrata Mukim and
Ms.Kashpi Agarwal, Advocates
for North DMC.

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S. SISTANI, J. (ORAL)

CM Appl. Nos. 51389/2019 & 51392/2019 (for exemption)

Allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 12575/2019

1. The present writ petition is directed against order dated 04.10.2019 by which the Contempt Petition filed by the petitioners

herein stands dismissed. To begin with the petitioners filed OA No. 4088/2012 which was disposed of by the Central Administrative Tribunal ('Tribunal' for short) vide order dated 06.08.2015. Certain directions were issued during the pendency of the aforesaid O.A. and order dated 28.11.2014 was passed in MA No. 3711/2014. Subsequently, a Contempt Petition was executed by the petitioners alleging non-compliance and non-implementation of the orders passed in the OA.

2. The Contempt Petition was registered as CP No. 61/2016 and was disposed of vide order dated 20.01.2017. The petitioners assailed the aforesaid order by filing W.P.(C) No. 843/2018, which was dismissed by this Court vide order dated 31.01.2018. The petitioners also preferred a Special Leave Petition against order dated 30.01.2018 bearing SLP (Civil) No. 7559/2018 titled Som Dutt & Ors vs. P.K. Gupta & Ors., which SLP was also dismissed by the Hon'ble Supreme Court vide order dated 28.03.2018.

3. Mr. Anand Nandan, learned counsel for the petitioners submits that the learned Tribunal has failed to take into account the directions passed by it vide order dated 06.08.2015 in OA No. 4088/2012 read with order dated 28.11.2014 in MA No. 3711/2014. He further submits that the Tribunal has also failed to take into account that the Tribunal had directed the respondents to permit the petitioners to continue their services on contractual basis without insisting that they should furnish any undertaking to the effect that they would not claim regularization. The Tribunal has however rejected the contentions of

the petitioners and dismissed the second Contempt Petition vide order dated 04/10/2019.

4. We do not find any infirmity in the view taken by the Tribunal for the reasons given below :

4.1 In M.A. No. 3711/2014, the following Order was passed on 28.11.2014:

"Applicants in the MA originally filed OA No.4088/2012 seeking direction to the respondents to fill the vacant 113 posts of Cattle Catchers and to appoint them on the said vacancy on regular basis and also for regularisation of services as per Policy of the respondents.

During the pendency of the OA the respondents have been continuing the applicants on the post of Cattle Catchers on contract basis.

The present MA is filed seeking stay of the order dated 24.11.2014 with direction to the respondents to engage the applicants without insisting of furnishing of any undertaking to the effect that they shall not claim for regularisation for the post of Cattle Catchers.

The learned counsel for the applicants submits that though the respondents have extended the contract of the applicant but are forcing them to furnish the undertaking which is against their claim in the main OA itself.

The learned counsel for the respondents while not disputing the fact that in the main OA applicants are

claiming regularisation, seeks time to file reply in the MA.

In the circumstances, the respondents are directed to permit the applicants to continue their services on contract basis vide order dated 24.11.2014, however, without insisting them to furnish any undertaking to the effect that they shall not claim for regularisation.

List the MA on 08.12.2014, on which date the OA is directed to be listed for final hearing.”

4.2 In OA No. 4088/2012 the following order was passed on 06.08.2015 in para (8) :

*“8. In the circumstances, the OA is disposed of without going into the merits of the case, by directing the respondents to consider the cases of the applicants for regularization of their services in terms of the Judgment of Hon’ble High Court of Delhi in **Sonia Gandhi** (supra) or to initiate the process for filling up the vacancies of Cattle Catchers on regular basis, as they have filled earlier. It is also directed that if the respondents are filling up the vacancies of Cattle Catchers on regular basis, the cases of the applicants shall also be considered, along with others, by keeping in view the Judgment of the Hon’ble Apex Court in **Dr. Jamuna Kurup** (supra) in respect of age relaxation. This exercise shall be completed within four months from the date of receipt of a copy of this order and till then the applicants shall be continued on the same posts on same terms.”*

4.3 The Tribunal had directed that if the respondents were filling-up vacancies of Cattle Catchers on regular basis, the case of the applicants/petitioners would be considered along with others keeping in view the judgment of the Apex Court in **UPSC Vs. Dr. Jamuna Kurup & Ors.** reported as (2008) 11 SCC 10 in respect of age relaxation. The exercise was to be completed within four months from the receipt of the order and until then the applicants were to be permitted to continue on the same posts and on the same terms.

4.4 Aggrieved by the fact that the respondents had failed to comply with the orders passed in M.A. No. 3711/2014 and O.A. No. 4088/2012, the petitioners filed C.P. No. 61/2016. The same was disposed of by an order dated 21.01.2017. Para Nos. 4, 5 and 6 of the said order read as under :

"4. The respondents replied to the Contempt Petition and filed number of affidavits by enclosing various orders passed by them. Vide Order dated 19.09.2016, the respondents passed orders as under:-

"12. That as per records, there is no reference since 1997 whereby the department recruited cattle catchers directly on regular basis. At present there is no notified RRs of the cattle catchers (Group C in the pay scale of 5200-20200 + GP 1800). The department has considered the RRs of cattle catchers as passed by the unified Corporation in 2011 vide resolution No.234 and has initiated the proposal of formulation of RRs of cattle catchers on this

basis in the trifurcated set up of the Corporations. These RRs of cattle catchers are being finalized administratively by the Competent Authority and thereafter these will be sent to the Director of Local Bodies for further approval and notification and then the recruitment of the cattle catchers would be done by the recruiting agency in accordance with the Notified RRs. This process shall take some more time.

“13. However, in compliance with the directions of the Hon’ble Tribunal to provided age relaxation to the applicants contractual cattle catchers while filling up the posts of cattle catchers on regular basis, in view of the Law laid down by the Hon’ble Apex Court in UPSC Vs. Dr. Jamuna Kurup & Ors. (2008) 11 SCC 10, draft RRs with age relaxation are being submitted to the Director, Local Bodies, Govt. of NCT of Delhi for providing one time age relaxation to the applicants contractual cattle catchers while the regular recruitments are made keeping in view the contractual service tenure of the applicants with the North DMC.”

“5. In view of the aforesaid orders of the respondents, the learned counsel for the respondents, on instruction, from Dr. Dinesh Sharma, Dy. Director (VS)/North DMC, who is present in court submits that out of six applicants they have continued the service of the three applicants, on contract basis and they are working as on today. In respect of the remaining three applicants, the learned counsel for

the respondents submits that the respondents are ready to engage them on contract basis, if they approach them but they are not approaching the authorities for issuance of the contract.

“6. In the aforesaid circumstances, the Contempt Petition is closed by permitting the applicants no. 1, 3 & 5 to approach the respondent-Director (VS), North Delhi Municipal Corporation, 17th Floor, Dr. S.P.M. Civic Centre) today at 3.00 PM and on such approach, the said officer will allow them to join on contract basis by furnishing undertaking that they will not claim regularization. No costs”.

4.5 A reading of all the three orders would show that the grievance of the petitioners was finally decided in the last order dated 20/01/2017, when the Tribunal observed that the petitioners would approach the Director (VS) of the North Delhi Municipal Corporation on that day itself and the said officer would allow them to join on contractual basis by petitioners furnishing an undertaking that they will not claim regularization.

4.6 This order of the Tribunal was assailed by filing W.P.(C) No. 843/2018 and thereafter SLP No. 7550/2018, which were dismissed in *limini*, the effect of which would be that the order of the Tribunal assailed in W.P.(C) No. 843/2018 has attained finality at the highest level; and therefore the submission of counsel for the petitioners to reopen the matter cannot be acceded to.

5. In view of the foregoing discussion, there is no merit in the writ petition; and accordingly, the same is dismissed.

CM Appl. Nos. 51390-91/2019

6. In view of the order passed in the writ petition, the applications also stand dismissed.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 29, 2019

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