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

Date of Decision: 8th December, 2020

+ **W.P.(C) 5908/2020 & CM APPL. 21377/2020**

ANT RAM & ORS.

..... Petitioners

Through: Mr. Gunjan Singh, Advocate. (M:
9643500529)

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mrs. Suparna Srivastava, CGSC with
Ms. Nehul Sharma, Advocate for R-1,
2 & 4. (M:9899174343)
Ms. Rani Chhabra, Advocate for R-3.
(M:9811168252)
Mr. Dharendra Singh, Advocate for R-
5. (M:9811575181)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The present petition has been filed by 12 Workmen who were Multi-Tasking Staff at the Dr. Ram Manohar Lohia Hospital (*hereinafter*, '*Hospital*'), employed through a contractor – GA Digital Web Word (P) Ltd.//Respondent no.3. The Hospital had issued orders of termination dated 28th July, 2020 terminating the services of the said employees with immediate effect, which has been challenged in the present petition.
3. The background to these petitions is that the Petitioners were engaged by Respondent No.3, between 2015-18, for rendering multiple task services at the Hospital. They continuously rendered services even during the

pandemic. However, the said contract was thereafter handed over to Central Public Works Department (*hereinafter*, 'CPWD') for maintenance of some portions of the Hospital building and other services. The CPWD appointed a fresh contractor who did not, thereafter, continue the employees of the previous contractor. Vide order dated 2nd September 2020, CPWD was impleaded as Respondent No.4. CPWD thereafter filed an affidavit informing the Court that it was handed over the maintenance assignments with respect to Emergency Care Services (ECS) building of the hospital on 2nd December 2019. The CPWD was not informed of any other agency or workmen working in the ECS building and hence no conditions were imposed for absorbing the contractual employees. A tender process was undertaken by the CPWD and one M/s. Sudesh Refrigeration emerged as the successful tendered. This contractor was then awarded the contract for deploying its personnel. The affidavit finally concludes as under:

"That I state that in view of the above, the Petitioner workmen may be directed to request M/s Sudesh Refrigeration for redeployment in the ECS Building or elsewhere, subject to fulfillment of minimum technical qualifications and experience as per the terms and conditions of the tender agreement."

4. In view of the affidavit filed by CPWD, vide order dated 7th October 2020, the new contractor M/s Sudesh Refrigeration was impleaded as Respondent No.5 in the present petition. Considering the stand taken by the CPWD who clearly had no objection in the workmen being employed by the new contractor, this Court directed as under:

"9. In paragraph 5 of the affidavit of CPWD it is stated that the workmen may approach M/s.

Sudesh Refrigeration for employment. Accordingly, without prejudice to the present proceedings, the Petitioners are permitted to approach M/s. Sudesh Refrigeration on 9th October, 2020 at 11:00 am in the ECS building of RML Hospital.”

5. Thereafter, disputes arose to the effect that the Petitioners had, in fact, approached or not approached the contractor. Accordingly, on 3rd November 2020, the workmen were directed to approach the Medical Superintendent of the Hospital, as this Court was of the opinion that during the pandemic especially when there are contractual employees who have experience of working at the hospital, the said employees ought to have been accommodated before taking on further contractual employees.

6. Mr. Gunjan Singh, Id. counsel for the Petitioners submits that the workmen approached the Medical Superintendent, however to no avail. Ms. Rani Chhabbra, Id. counsel, appearing for Respondent No.3/Contractor submits that the Contractor is willing to take the 12 Petitioners on contractual basis, if the Hospital does not have an objection and gives an approval for the same.

7. This Court is of the opinion, in the context of the Petitioners who were working for several years in the hospital, that the hospital should have ensured that old employees who are working ought to have been given a preference over new contractual employees. Moreover, the old contractor is continuing to render services to the hospital even today and hence the termination of the employees does not appear to be justified at all. Considering the fact that currently there is a huge pandemic going on and the Workmen, if terminated, would be completely rendered jobless and that

the Contractor is willing to accommodate the Workmen, the Hospital is directed to approve the employment of the Petitioners under Contractor Respondent No.3/GA Digital Web Word (P) Ltd., on the same terms and conditions which were operating prior to July, 2020. The Petitioners shall accordingly, report to duty from 10th December, 2020. The salary for the month of December, 2020 shall be disbursed for the proportionate period. From the month of January, 2021 onwards, the entire salary shall be paid to the Petitioners and their services shall be taken by the Contractor/ Hospital on the same terms and conditions which were operating prior to July, 2020. The Workmen shall ensure that they shall render their services diligently in whatever role is ascribed to them by the Contractor/hospital.

8. With these observations, the present petition and all pending applications are disposed of in the above terms.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 8, 2020

Dj/Ak