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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 31st January, 2020

+ W.P.(C) 12221/2016 and CM No.48201/2016

PAWAN KUMAR JAIN

..... Petitioner

Through: Mr. Rishabh Jain, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, Central
Govt. Standing Counsel for R-1 to 3 with Mr. T.P.
Singh, Adv.

Mr. Raman Kapur, Sr. Adv. with Mr. R.P. Singh,
Adv. for R- 4

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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31.01.2020

D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(C) 12221/2016

1. This writ petition has been preferred with the following prayers:

“(a) Issue an appropriate writ of mandamus/ certiorari/ quo warranto or any other direction removing the Respondent Nos. 5 to 7 from the posts of posts of Executive Director cum Secretary, Deputy Director and Assistant Director;

(b) Issue an appropriate writ of mandamus/ quo warranto or any other direction to the Respondent Nos. 5 to 7 to recoup the benefits drawn by them during the period of

illegal continuation of services at the posts of Executive Director cum Secretary, Deputy Director and Assistant Director from July 2014 to January 2017 and direct the Respondent Nos. 1 to 3 to take appropriate action that illegally and illegitimately paid remuneration for the above period may be secured from the three named delinquent officers or the members of committee of administration for conniving in illegal actions to allow them to continue in service.

(b) Issue an appropriate writ of mandamus/ quo warranto or any other direction to the Respondent Nos. 5 to 7 to recoup the benefits drawn by them during the period of illegal continuation of services at the posts of posts of Executive Director cum Secretary, Deputy Director and Assistant Director from July 2014 to January 2017 and direct the Respondent Nos. 1 to 3 to take appropriate action that illegally and illegitimately paid remuneration for the above period may be secured from the three named delinquent officers or the members of committee of administration for conniving in illegal actions to allow them to continue in service.

(c) Issue an appropriate writ of mandamus/ quo warranto or any other direction to the Respondent Nos. 1 & 2 to initiate/take any other consequential action/ disciplinary proceedings or any other action against the Respondent Nos. 5 to 7 for having illegally continued in

occupation of the posts of Executive Director cum Secretary, Deputy Director and Assistant Director;

(d) Pass such other and further orders that this Hon'ble Court may deem fit in the circumstances of the present case.”

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that several grievances have been ventilated by this petitioner about the continued occupation of posts by the respondent nos. 5, 6 and 7 to the posts of Executive Director cum Secretary, Deputy Director and Assistant Director in the Carpet Export Promotion Council.

3. Looking to paras 5 to 7 of the counter affidavit filed by the respondent no.4, dated 1st February, 2019, it appears that:

- Respondent no.5 reached the age of superannuation on 31st March, 2017;
- Respondent no.6 retired on 30th September, 2016; and
- Respondent no.7 retired on 31st August, 2016, after getting one extension in their service.

4. Thus, all the aforesaid respondents against whom this writ petition has been preferred are no more in employment with the Carpet Export Promotion Council as on date. Since writ of quo warranto cannot be issued for the removal of retired employees, therefore, no question whatsoever arises for issuance of the same in this case.

5. Further, it also appears from the facts of the case that respondent nos. 5, 6 and 7 had been working for almost 30 years i.e. from the very inception of Carpet Export Promotion Council. Learned Senior Counsel appearing for

the respondent no. 4 submitted that the total strength of the staff of this Council is approximately 17 and for this reason the services of respondent nos. 5, 6 and 7 were extended after their retirement in accordance with the Service Rules of the Council, as annexed to the counter affidavit, dated 1st February, 2019, filed by respondent no. 4 at page 247 of the paperbook.

6. For ready reference, paragraph 5.7 of the counter affidavit and paragraph 16 of the Service Rules above mentioned are reproduced hereunder :

“5.7. That the contents of para 5.7 are wrong and denied. It is wrong and denied that no employee of respondent no.4 can hold the office in the council beyond the age of 60 years unless covered by the condition of being a medical or science specialist. It is relevant to point out that the aforesaid condition is applicable to Central Government Employees only which is obvious from the averments' made in para 5.5 of the present Writ Petition and not to the Respondent No. 4 which is governed by its own rules and regulations. It is wrong and denied that Respondent No. 5-7 are still continuing in service of Respondent No. 4 holding their respective posts and drawing their respective salaries. It is submitted that Respondent No. 5 superannuated on 31.3.2017, Respondent No. 6 on 30.9.2016 and Respondent No. 7 on 31.8.2016 after receiving one extension as permissible under the Service Rules of Respondent No. 4.

16. All employees shall retire from the service of the Council on completion of 58 years. However, in respect of

existing employees, who have joined service upto 31st December, 1986, the retirement age shall be 60 years. The Council, however, at its discretion may extend their services, if they considered necessary. In this case, the proof of age will be determined and binding on both the Council and the employee by matriculation certificate/birth registration certificate.”

7. In view of the aforesaid submissions, it appears that looking to the exigencies of the Council, the services of the respondent nos. 5 to 7 were extended, as permissible under the Service Rules of the Council.

8. In view of these facts, we see no reason to entertain this writ petition as respondent nos. 5, 6 and 7 have already retired even after extension of their service period.

9. Moreover, in our considered view, there is no substance left in this writ petition and the same is therefore dismissed.

CM No.48201/2016

1. In view of the disposal of the writ petition, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

JANUARY 31, 2020/kr