HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Misc(Writ) II Stay Application No. 13170/2020

In

D.B.Civil Special Appeal (Writ) No. 458/2020

1. Ajay Sen S/o Shri Basantilal Sen, Aged About 41 Years, R/o Jethiyo Ki Bari, Amba Mata, Udaipur, Rajasthan.
2. Amit Kumar Chobisa s/o Shri Jagdish Chandra Chobisa, aged about 41 years, r/o Vyas Villa Brahampuri, Sagarpura, Kanor, Udaipur, Rajasthan.
3. Shikhar Kumar Dhramawat s/o Shri Manohar Lal Jain, aged about 40 years, r/o Ward No.11, Adarsh Housing Board, Manva Khera, Udaipur, Rajasthan.
4. Bharat Raj Shrimali s/o Shri Satyanarayan Shrimali, aged about 34 years, r/o 12, Brahmpuri Balicha Unwas, Rajsamand, Rajasthan.
5. Prem Shanker Menaria s/o Shri Suresh Kumar Menaria, aged about 33 years, r/o Vallabhnagar, Menar, Udaipur, Rajathan.
6. Pankaj Sukhwal s/o Ashok Kumar Sukhwal, aged about 30 years, r/o School Ke pass Rajgarh, Bhilwara, Rajasthan.
7. Manbhar Kumari Meena w/o Kanaram, aged about 36 years, r/o Jakhara, Jatwara, Jaipur, Rajasthan.
8. Surjeet Singh s/o Laxmi Narayan, aged about 34 years, r/o Sadabhoj Ka Badiya, Borwa, Rajsamand, Rajasthan.
9. Mohammad Jahir Khan s/o Shri Aamir Mohm Khan, aged about 44 years, r/o Mehtaji Ke Tal Ki Pass, Junwas, Bhilwara, Rajasthan.
10. Sunil Kumar Dadhich s/o Prem Shankar Sharma, aged about 33 years, r/o Charbhuja Mandir Ke Pass, Hingwaaaniya, Gundli, Chittorgarh, Rajasthan.
11. Mohsin Ahmed s/o Akhwal Ahamad, aged about 36 years, r/o Akhara Chowk, Shastri Circle, Udaipur, Rajasthan.

----Petitioner

Versus

1. The State Of Rajasthan, Through The Deputy Secretary, Medical And Health Services, Department, (Group-3), Rajasthan, Jaipur.
2. The Principal Administrative Secretary, Medical & Health Services Department, Rajasthan, Jaipur.
3. The Principal & Controller, Ravindra Nath Tagor Medical College & Joint Hospital Group, Udaipur.

4. Anand Kumar Chobisa s/o Ravindra Kumar Chobisa, aged about 35 years, r/o 3-Ha-40, Hiran Magri, Sector-5, Prabhat Nagar, Udaipur, Rajasthan.
5. Habib Nabi Khan s/o Late Mujffar Khan, aged about 35 years, r/o Opposite Almirah Workshop, Near Rimjhim Vatika, Ranakhet, Mullatalai, 80 feet road, Udaipur, Rajasthan.

----Respondent

For Petitioner(s) : Mr. Kuldeep Mathur
For Respondent(s) : Mr. Manish Vyas, AAG
(Through VC)

RAJASTHAN HIGH COURT

HON'BLE MR. JUSTICE SANGEET LODHA
HON'BLE MR. JUSTICE RAMESHWAR VYAS

Order

16/12/2020

The matter comes up on second stay petition preferred on behalf of the appellants seeking directions to the respondents not to fill up 11 posts of Nursing Staff pursuant to advertisement dated 8.12.2020.

It is noticed that the writ petition preferred by the appellants assailing the legality of order dated 10.10.2020 whereby their services were terminated, was dismissed by the learned Single Judge with the observations that the appellants herein were engaged on urgent temporary basis only till the regularly selected candidates are available and therefore, they cannot claim any right to continue till infinity, particularly when the regularly selected candidates on the post of Nurse Gr.II have been appointed and joined.

Learned counsel appearing for the appellants contended that as a matter of fact, at the relevant time, when the services of the

appellants were terminated, the vacancies were existing and thus, the learned Single Judge has erred in holding that the appellants' services were terminated inasmuch as regularly selected candidates were made available. Learned counsel submitted that recently, on 8.12.2020, the Superintendent, Maharana Bhupal Government Hospital, Udaipur has issued an advertisement inviting applications for appointment inter-alia on the 11 posts of Nursing Staff on temporary basis on fixed remuneration and thus, the respondents were not justified in terminating the services of the appellants and they deserve to be restrained from filling up the posts till the appeal is decided.

Indisputably, the persons appointed on temporary basis cannot claim any right to continue on the post for indefinite period. The regular vacancies in the cadre are required to be filled in by way of regular selection. Learned Single Judge has dismissed the petition observing that the posts which the appellants were holding have already been filled in.

It is true that vide advertisement dated 8.12.2020, 11 posts of Nursing Staff have been advertised by the respondents, but a perusal of the advertisement reveals that the said posts were advertised keeping in view the spread of COVID-19 Pandemic, and thus, from the advertisement issued, it cannot be inferred that the posts which have been advertised were the posts lying vacant at the relevant time when the services of the appellants were terminated. The matter with regard to appellants' entitlement shall be considered at the time of hearing of the appeal.

No case for grant of interim relief as prayed for is made out.

The second stay petition is, therefore, dismissed.

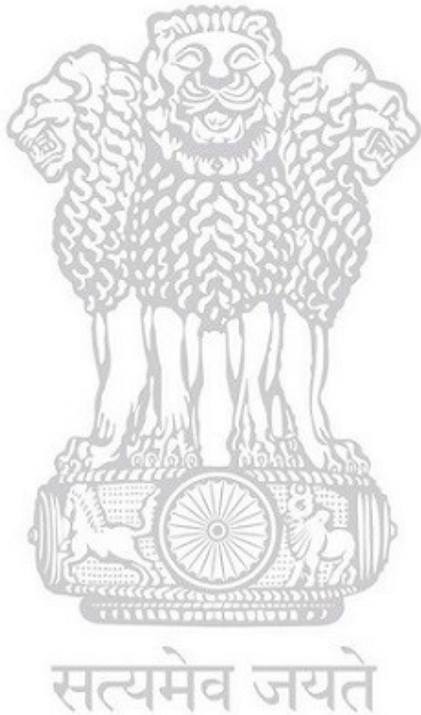
In view of the dismissal of the second stay petition as aforesaid, no relief as prayed for in the first stay petition can also be granted.

The first stay petition is also dismissed.

(RAMESHWAR VYAS),J **(SANGEET LODHA),J**

8-RP/-

RAJASTHAN HIGH COURT



सत्यमेव जयते