

04.02.2021

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M.A.T. 1339 of 2019

With

I.A. No.CAN 1 of 2019 (Old CAN 10830 of 2019)

Sajal Kumar Paul & anr.

Vs.

The Secretary, Ministry of Food and Agriculture & ors.

Mr. Avijit Sarkar for appellants.

Mr. Susanta Pal,
Mr. Dipak Kr. Bhattacharyya,
Ms. Kalpita Paul ... for respondent nos.2 & 4.

Mr. Sarkar, learned advocate appears on behalf of applicants / appellants, who are ex-servicemen (ESM), not yet having attained age 65 years. They are aggrieved by communication dated 19th July, 2019 made by principal employer to the contractor saying, inter alia, as follows:-

“Hence you are requested to withdraw these above 60 year aged Security guards/Supervisors (kindly make sure if there are other security personnel who have attended the age of 60 year, not mentioned above) from all the centers allotted to you immediately as per our agreement and deploy alternate Security Guards in place of them.

For immediate action please.”

Mr. Pal, learned advocate appears on behalf of principal employer (respondent nos.2 and 4) and reiterates, points made in impugned order dated 31st July, 2019. He adds, office memorandum dated 9th July, 2012, issued by Government of India, Ministry of Defence (Department of Ex-servicemen Welfare) is a guideline or are guidelines and do not have statutory force.

Our attention has been drawn to, inter alia, clauses 14 and 23 in the guidelines. We require appearing respondents to file affidavit-in-opposition to the stay application, stating on oath their contention that these guidelines are not applicable to them. They will also state a line regarding their position on the guidelines in relation to mention therein of Private Security Agencies (Regulation) Act, 2005. Copy of the affidavit should be served on applicants by 19th February, 2021. Applicants may use affidavit-in-reply on advance copy served. Affidavits will be accepted on adjourned date.

Affidavit-of-service has been filed in terms of directions in order dated 27th January, 2021. We appreciate that unrepresented respondents have chosen to not appear in the application and the appeal.

Mr. Sarkar prays for interim order regarding joining duty by his clients. Mr. Pal opposes. It is made

clear, in event principal employer is unsuccessful in the appeal, there is likely to be appropriate order for payment of costs.

List on 1st March, 2021.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)