

Administrative Tribunal, Mumbai Bench, Mumbai in a batch of original applications that were moved before it by aggrieved teachers engaged on contractual basis. It was claimed in such original applications that the Union Territory Administration was seeking to conduct Performance Evaluation Test as a ruse for discharging the petitioners from service despite they having been in contractual service for several years, interrupted by artificial breaks, without any blemish.

2 Upon hearing the parties, the Tribunal held that the petitioners should not be scared of the Performance Evaluation Test which is likely to prove their merit and, accordingly, granted liberty to the respondents to go ahead for conducting such test as well as to the petitioners to participate in it. The penultimate paragraph of the order reads as under :

“However, final action of the respondent with respect to continuation of the applicants engaged on contractual basis based on result of the performance evaluation test would be subject to outcome in these OAs. ”

The original applications were posted on 1st February, 2021 for hearing the final argument.

3 The petitioners have approached this Court challenging the said order of the Tribunal basically on the ground that the Tribunal should have stayed the fresh process for appointing teachers on contract that has been initiated by the respondents by an advertisement dated 10/11th October 2020 as well as for stay of the process for performance evaluation test initiated by a notice dated 1st December, 2020.

4 Mr. Parmar, learned counsel appearing for the petitioners, referring to the decision in ***State of Haryana & Ors. Vs. Piara Singh & Ors.***, reported in ***(1992) 4 Supreme Court Cases 118***, contends that law is well settled that one set of temporary employees cannot be replaced by another set of temporary employees. This, according to him, the Tribunal has not considered in the proper perspective. He, accordingly, prays for an order to protect the service of the petitioners.

5 At this stage, we have heard Mr. Venegaonkar, learned counsel for the respondents to submit that the respondents have understood the penultimate paragraph of the impugned order, extracted supra, to mean that till the Tribunal hears the parties on 1st February, 2021 again, the petitioners' services may not be disturbed; and having regard thereto, there is no imminent threat of the petitioners being adversely affected. He has, however, apprised us that the performance evaluation test as well as the test pursuant to the advertisement in question has been conducted and the results thereof been declared.

6 If this be the understanding of the order of the Tribunal by the respondents, we do not consider it necessary to examine the prayer of the petitioners in these writ petitions. We hope and trust that the respondents shall continue to retain the petitioners in service till 1st February, 2021 in terms of their understanding of the order, as submitted before us and recorded above. Since the career of several hundreds of contractual teachers are

involved in the original applications pending before it, we request the Tribunal to explore the possibility of deciding the same as early as possible subject to its convenience. All the contentions are kept open for being urged by the parties before the Tribunal for a decision by it.

7. The writ petitions stand disposed of, without any order for costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)

Raju D.
Gaikwad

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D. Gaikwad
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