

\$~25 (2021 list)

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

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Date of decision: 28.10.2021

+ **W.P.(C) 10114/2021**

VIJAY PAL SINGH DALAL

..... Petitioner

Through: Ms. Prachi Goel, Advocate.

versus

GOVERNMENT OF NCT OF DELHI DIRECTORATE OF
EDUCATION CARETAKING BRANCH & ORS..... Respondents

Through: Ms. Vibha Mahajan Seth, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Physical Court Hearing]

RAJIV SHAKDHER, J.: (ORAL)

1. Before we proceed further, it is pointed out that there is a typographical error in the order dated 30.09.2021.

1.1 The error, according to the counsel for the parties, concerns the date of regular appointment given in the last line of paragraph 3 of the said order. The date given in the said order is 23.06.2020, whereas it should read as 20.03.2020.

1.2 Accordingly, paragraph 3 of the order dated 30.09.2021 shall stand corrected, to that extent. The remaining parts of the said order will remain unaltered.

2. We had heard the matter at length on 30.09.2021. After hearing the counsel for the parties for some time, we had passed the following order.

“1. This writ petition is directed against the order dated 07.04.2021, passed by the Central Administrative Tribunal (in short “the Tribunal”) in OA No.764/2021.

2. The petitioner, who is an ex-serviceman was appointed as ministerial staff in the Government Girls’ Senior Secondary School in Nangloi, Delhi, albeit, on contractual basis.

2.1. The petitioner’s appointment was made on 17.05.2016. Thereafter, the appointment was renewed every year. The last renewal of the petitioner’s contractual engagement took place on 20.05.2020, albeit, with effect from 17.05.2020.

2.2 The record shows that, the petitioner’s contract was terminated on 23.06.2020.

2.3. The petitioner’s grievance is that, although, his contract was terminated, the contract of another employee i.e., one Ms. Ganga Kumari was renewed.

2.4. The respondents appear to have taken the position, before the Tribunal, that, the petitioner’s contract was terminated, as in his place, a regular employee was appointed. It was the respondents’ contention that, once the regular appointment was made, the petitioner’s contract was brought to an end.

3. We are informed by Ms. Prachi Goel, who appears on behalf of the petitioner, that, although, the petitioner’s contract was renewed for another year i.e. on 20.05.2020, regular appointment was made on 23.06.2020.

4. Ms. Vibha Mahajan Seth, who appears on behalf of the respondents, submits that, there were only three posts available for appointment of ministerial staff. It is Ms. Seth’s contention that, all three posts stand filled up by the regular employees.

4.1 According to Ms. Seth, there are no posts left for appointment on regular basis, and since at this point in time, the respondents do not require ministerial staff, no contractual engagement(s) are required to be undertaken.

4.2. We have been also informed by Ms. Seth that, the petitioner’s grievance vis-à-vis Ms. Ganga Kumari does not

survive, in view of the fact that, Ms. Ganga Kumari, in the interregnum, has resigned and a regular appointment has been made, in her place.

5. Given the aforesaid circumstances, in our view, nothing survives in the writ petition, if submissions made before us by Ms. Seth are to be believed.

5.1. Although, we have no reason to disbelieve Ms. Seth's submissions, however, for the purposes of good order and record, Ms. Seth will file an affidavit, in line with the submissions she has made before us, before the next date of hearing. Inter alia, the said affidavit will also indicate the details of the person appointed on a regular basis, in place of Ms. Ganga Kumari.

5.2. The affidavit will be filed by Ms. Seth within the next ten days. A copy of the same will be furnished to Ms. Goel.

6. List the matter for compliance on 18.10.2021."

3. Pursuant to the directions given by us in the abovementioned order, Ms. Seth has filed an affidavit dated 16.10.2021.

3.1. A perusal of the aforementioned affidavit filed on behalf of the respondents would show that, they have taken the following stand:

"2. I state that as per Rule 2 of the Public Notice dated 22.04.2016, there were in all three (3) Posts of Ministerial Staff which could be filled (regular plus contractual) in the Respondent No.2 School, CGSSS School. The Petitioner, Sh. Vijay Pal Singh Dalal, was appointed as Ministerial Staff on contractual basis vide order dated 17.05.2016. Copy of the Public Notice dated 22.04.2016 is annexed as Annexure-I.

3. I state that the services of the Petitioner were terminated on 23.06.2020 on account of appointment of regular employee in his place, as per Public Notice dated 22.04.2016 of the Respondents. At that time, there were two (2) regular employees and two (2) contractual employees working on the post of Ministerial Staff. Therefore, services of one of the

contractual employees, that is, the Petitioner was terminated by the Head of the School in consultation with Selection Committee and only one post of contractual Ministerial Staff which was filled by Ms. Ganga Kumari, was continued. I state that, however, Ms. Ganga Kumari also resigned from her post on 30.06.2020. The true copy of the resignation letter is dated Annexure-II.

5. I state that subsequently, the third post was also filled by a regular employee, namely 1. Praveen Kumar Goyal, ASO, DOJ 30.01.2020, 2. Sh. Amit Mallik, Sr. Asstt., DOJ 20.03.2021 and 3. Sh. Ajay Singh Jr. Asstt. DOJ 18.03.2021. Thus, as on date, all the three (3) posts of the Ministerial Staff are filled by regular employees and there is no vacant post for appointment of Ministerial Staff on contractual basis as per the Public Notice dated 22.04.2016. Annexure-III.”

4. We find that along with the abovementioned affidavit, inter alia, a communication dated 13.10.2021, addressed by one Ms. Sunita Kumari Meena, Vice Principal/HOS, Govt. Girls Senior Secondary School (in short “GGSSS”) to the DDE (Zone-17), District West-B, Directorate of Education, Vikaspuri, New Delhi, is also placed on record, as Annexures-III.

4.1. Via this communication, the Vice Principal/HOS has informed the Deputy Director (Education) [‘DDE’] that, Smt. Ganga Kumari, who was a contractual employee, resigned on 01.07.2020.

4.2. Furthermore, the aforesaid communication goes on to state that, three persons have joined the ministerial staff in the school. The name and date of joining of these persons has also been given. For the sake of convenience, the same is extracted hereafter:

S. No.	Name	Designation	DOJ
01	Sh. Parveen Kumar Goyal	Asstt. Section Officer	30.01.2020

02	Sh. Amit Malik	Sr. Asstt.	20.03.2020
03	Sh. Ajay Singh	Jr. Asstt.	18.03.2021

4.3. We may only note that, in paragraph 5 of the abovementioned affidavit dated 16.10.2021 [although, the said paragraph should have been numbered as paragraph 4], the date of joining given against Mr. Amit Malik's name is 20.03.2021, however, the same should read as 20.03.2020.

5. Therefore, as indicated by Ms. Seth on 30.09.2021, all three [3] posts of Ministerial Staff, have been filled up. These posts have been filled up, in terms of the circular dated 22.04.2016, which is also appended to the aforesaid affidavit and is marked as Annexure-I.

5.1. Clearly, no posts of Ministerial Staff in GGSSS, are vacant at present and the persons who have been engaged against the said post have been engaged on a regular basis.

6. Given the aforesaid circumstances, no relief can be granted to the petitioner.

7. The writ petition is, accordingly, closed.

RAJIV SHAKDHER, J.

TALWANT SINGH, J.

OCTOBER 28, 2021/tr

Click here to check corrigendum, if any