



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

Date of decision: 17th AUGUST, 2022

IN THE MATTER OF:

+ **LPA 207/2022 & CM APPLs. 13505-06/2022, 13651/2022**

RITESH TANWAR & ORS.

..... Appellants

Through: Mr. Sanjay Mishra, Mr. Rajiv
Tripathi, Ms. Stuti Mishra, Mr. Sunil
Tiwari, Advocates

versus

DELHI CANTONMENT BOARD THROUGH ITS CEO & ORS.

..... Respondents

Through: Ms. Avnish Ahlawat, Mr. T. S.
Nanda, Mr. Ankur Mishra, Advocates
for R-1
Ms. Sriparna Chatterjee, Mr.
Soumitra Chatterjee, Advocates for
R-2
Mr. Anurag Ahluwalia, CGSC with
Mr. Danish Faraz Khan, Mr. Vishal
Chanda, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The present LPA arises out of an Order dated 15.11.2021 passed by the learned Single Judge in Ritesh Tanwar & Ors. v. Delhi Cantonment Board Through Its CEO & Ors., W.P. (C) 12833/2021.



2. The facts of the case reveal that Appellant No.1 and 2 are individuals, and Petitioner No.3 is an Association of Contractors. The writ petition was preferred by the Appellants herein for issuance of an appropriate writ, order or direction restraining Respondent No.2 from holding any public post alleging that Respondent No.2 does not hold the requisite qualification for the post of Assistant Engineer and he is a backdoor entrant.

3. Learned Single Judge *vide* Order dated 15.11.2021, had dismissed the said writ petition. Paragraphs 2 to 9 of the Order passed by the learned Single Judge reads as under:-

“2. Apparently, the prayers (a) and (b) are with regard to the appointment of the respondent No.2 as an Assistant Engineer in respondent No.1 organisation. The prayer (c) is not related to the appointment of the respondent No.2 in the respondent No.1 organisation.

3. Mrs. Avnish Ahlawat, Advocate, appears for respondent No.1, Mr. Naresh Kaushik, Advocate, appears for respondent No.2 and Mr. Anurag Ahluwalia, CGSC, appears for respondent Nos.3 and 4.

4. It is conceded case of the counsel for the petitioner that neither the petitioner No.1 nor the petitioner No.2 are employees of the respondent No.1 organisation. Rather they are private persons. The petitioner No.3 is an association of contractors based in the Delhi Cantonment area. The grievance of the petitioners in this petition appears to be the appointment of the respondent No.3 as Assistant Engineer in the respondent No.1 organisation in the year 1996.

5. Though, many pleas have been advanced by the counsel for the petitioner, one of the pleas is that the appointment is not accordance with the rules. This



stand is contested by Mrs. Ahlawat, Mr. Kaushik as well as Mr. Ahluwalia.

6. Suffice to state that that the petitioner challenges the appointment of the petitioner which happened in the year 1996 i.e. 25 years back. Apparently such a challenge, without going into the locus of the petitioners, is hit by delay and laches and is also a stale claim. The plea of the learned counsel for the petitioners is that the petitioners have come to know about the appointment only in the year 2016-17 which resulted in a representation made in the year 2017. Merely because the petitioners have come to know about the appointment in 2016-17 and made representation in the year 2017 would not revive the cause of action if any for the petitioners to challenge the appointment made in 1996.

7. Suffice to state, the prayers (a) and (b) cannot be granted. The petition qua them is rejected. In so far as prayer (c) is concerned, as this prayer does not relate to the appointment of respondent No.2 and as such not a service matter, I say nothing.

8. The petitioners are at liberty to seek remedy as available in law with regard to prayer (c).

9. The petition is dismissed.”

4. The order passed by the learned Single Judge reveals that the appointment of Respondent No.2 was made in the year 1996 and it was only after about 25 years of the appointment of Respondent No.2 that the writ petition has been preferred.

5. Learned counsel appearing for the Delhi Cantonment Board has stated before this Court that Appellant Nos.1 and 2 have filed this appeal with an



oblique and ulterior motive as their property was sealed in the presence of Respondent No.2 as it was an unauthorized construction. Learned counsel for the Appellants has admitted in Court that their property was sealed on the allegation that it is an unauthorized construction.

6. Learned counsel for the Delhi Cantonment Board states that as many as 288 applications were preferred by the Appellant No.1 and 2 under the Right to Information Act, 2005. It is also submitted that as many as 83 complaints have been filed against Respondent No.2 by the Appellants and they have all been looked into by the authorities. Similarly, the complaint preferred by the Appellants was also looked into by the Principal Director, (Directorate of Defence Estates), Western Command, wherein it has been held that there was no irregularity in appointment of Respondent No.2.

7. Learned Counsel for the Appellants also does not dispute the order passed by the Principal Director (Directorate of Defence Estates), Western Command.

8. The learned counsel for the Appellants further contends before this Court that there is lot of corruption in the Delhi Cantonment Board. He has stated that the tenders of the Appellants were rejected without any reasons and there are violations of the rules while granting tenders to certain persons. However, this is not the subject matter of the instant appeal.

9. In light of the material on record, this Court is of the opinion that this appeal is nothing but an attempt made by the Appellants to blackmail the Delhi Cantonment Board. In case there is corruption in the Delhi Cantonment Board, a mechanism has been provided under various provisions of law and the Appellants are certainly at liberty to avail the remedies in accordance with law. Merely by making bald allegations, this



Court cannot conduct a roving inquiry into the allegations made by the Appellants. This Court does not find any reason to interfere with the order passed by the learned Single Judge in the peculiar facts and circumstances of the case.

10. The LPA is dismissed with the above observations. Pending applications stand disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

AUGUST 17, 2022

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