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

+ **W.P.(C) 10290/2022 & CM APPL.29663/2022 (for interim relief)**

REENA KUMARI GAUR & ORS.

..... Petitioners

Through: **Ms. Meghna De with Ms. L.
Gangmei, Advocates.**

versus

DELHI CANTONMENT BOARD & ANR.

..... Respondents

Through: **Mr. Ankur Mishra, Advocate for
respondent No.1.**

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Date of Decision: 07th July, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. Present petition has been filed seeking the following prayers:-

“a. Issue an appropriate writ, order or direction, thereby directing the Respondent No. 1 to maintain status quo in the service condition of the Petitioners and not to terminate their services by replacing them with outsourced workers; and

b. Issue an appropriate writ, order or direction, thereby directing the Respondent No. 1 to comply with the direction/notice dated 01.07.2022 passed by Union of India



through the Assistant Labour Commissioner (Central), Ministry of Labour and Employment; and

c. Issue an appropriate writ, order or direction, thereby directing the Respondent No. 1 not to change the service conditions of the workmen during the pendency of the industrial dispute without following the procedure under section 33 of the Industrial Disputes Act, 1947.”

2. Learned counsel for the petitioners submits that the petitioners are aggrieved as they are being forced by respondents to agree with the respondents for placing them under a contractor. Learned counsel for the petitioners submits that an industrial dispute has already been raised and the matter is pending before the Conciliation Officer.

3. Order passed by the Conciliation Officer dated 01.07.2022 is as under:-

“File no. ALC-111/8/0L/ 161/2022

Date-01.07.2022

To

<i>Ms Reena Kumari Gaur & 7 ors, Through Hospital Employees Union, Agarwal Bhawan G.T Road Tis Hazari, Delhi-110054</i>	<i>The CEO, Delhi Cantonment Board, Sadar Bazar, Delhi Cantt, Delhi -110010</i>
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*Sub: I.D./Complaint between the management of Delhi
Cantonment Board and their workmen Ms Reena Kumari
Gaur & 7 ors regarding Regularization.*

Sir,



*Please be informed that the matter will taken up for discussion at this office on **08.07.2022 at 12:00 Noon** under section 12 of the Industrial Disputes Act, 1947 with a view to investigate the dispute and all matters affecting the merits and right settlement thereof.*

You are hereby required to appear on the aforesaid date and time either in person or through an authorised representative who is competent to take appropriate stand on the relief sought for in the complaint in order to arrive at an amicable settlement. You may file any statement in reply along with all relevant papers/ documents in five copies on or before the date of discussion and give one copy thereof to the other side.

No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceeding under this Act or in any proceedings before a Court.

In this connection attention of mgt. is drawn towards sec.33 of the ID Act. And advised to adhere the provision its letter and spirit and not to terminate services in order to avoid any untoward action.”

4. Learned counsel for the petitioner submits that in a similar situation in W.P.(C) 9226/2022 titled *Saraswati & Ors. vs. The Chief Electoral Officer, GNCTD* and W.P.(C) 9645/2022 titled *Kamlesh Panwar & Ors. vs. Delhi Cantonment Board & Anr.*, directions have been passed by this Court not to change the service conditions of the petitioners.
5. Learned counsel for the petitioner further submits that in fact the petitioners are the direct employees of the respondent No.1.
6. Issue notice. Sh. Ankur Mishra, learned Standing Counsel accepts notice on behalf of respondent No.1.
7. Sh. Mishra, learned Standing Counsel states that in fact the petitioners



have already been placed under the contractor wherein an agreement was signed on 01.07.2022. However, learned Standing counsel submits that there is no change in their salary or any service conditions. Learned Standing counsel has also submitted that the petitioners are not being replaced with the contract employees and they have also directed the contractor not to change the service conditions of the petitioners.

8. Perusal of the communication dated 01.07.2022 clearly indicates that the Assistant Labour Commissioner, Union of India has advised the respondents to adhere to the provisions as contained in Section 33 of the Industrial Disputes Act in letter and spirit and not to terminate the services in order to avoid any untoward incident.

9. It is an admitted fact that the petitioners have already raised an industrial dispute. It is made clear that the services of the petitioner shall not be disturbed during the pendency of the dispute before the Tribunal without compliance of Section 33 of the Industrial Disputes Act. Status quo shall be maintained in respect of the service condition of the petitioners.

10. With the above directions, the present petition along with the pending application is disposed of. However, nothing contained herein, shall tantamount to any expression on the merits of the case. The rights and contentions of the parties are left open.

DINESH KUMAR SHARMA, J

JULY, 07, 2022
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