



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

% Date of decision: September 13, 2023

+ W.P.(C) 9198/2019

(20) SANJU SINGH AND ORS.

..... Petitioners

Through: Mr. Abhishek Kumar, Ms. Deeksha Saggi and Mr. Rituparn Uniyal, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Neeraj, SPC, Mr. Sahaj, G.P., Mr. Rudra Paliwal and Mr. Vedansh Anand, Advs. for respondents

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this petition is to an order dated September 25, 2018 passed by the Central Administrative Tribunal in O.A. No.3686/2015 whereby the Tribunal has dismissed the O.A. filed by the petitioners by stating the paragraphs 7, 8 and 9 as under:-

*“7. This is a case filed by the applicants in 2015 seeking regularization of their services on the ground that they have put in their service as casual labourers for certain number of years. However, this Court is aware that claims of regularization of casual labourers were also subject matter of the decision rendered by the Supreme Court in the case of **Secretary, State of Karnataka and Ors. v. Uma Devi and Ors.**, 2006 (4) SCC 1, in which the Apex Court held as under:*

Adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of



Article 14 or in ordering the overlooking of the need to comply with requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould



the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

It was further held as under:

While directing that appointments, temporary or casual, be regularized or made permanent, courts are swayed by the fact that the concerned person has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain - not at arms length - since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to avoid a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing



of such employment brings at least some succour to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionally and equality of opportunity enshrined in Article 14 of the Constitution of India.

8. Having regard to the aforesaid observations of the Hon'ble Supreme Court as well as averments of the respondents that applicants were engaged for ongoing project undertaken from time to time and after completion of work or as per requirement and in compliance of various instructions of Government on the subject, their service were no longer required. Further that after implementation of VIth Pay Commission, the Group 'D' posts have been upgraded to Group 'C' as per the order issued by the DOP&T, and the same will be filled up through Staff Selection Commission. Hence, this Court does not find the applicants' claim is sustainable. Further reliance placed by the applicant on earlier decisions of this Tribunal (supra) will not help them as the same are distinguishable on facts.



9. *In the facts and circumstances of the case and for the foregoing reasons, the present OA is dismissed. There shall be no order as to costs.*”

2. The submission of learned counsel for the petitioners is that petitioners had been engaged as *Belders, Kulis and Safai Karamcharis* in the year 2002 on casual basis. They continued to work so till 2014-15, when their engagement was terminated. According to him, the petitioners were performing the duties to the best of their ability and at no point of time had given any cause for complaint to the respondents. He submits that despite representations, their services have not been regularised and for that purpose they have approached the Tribunal which has dismissed the O.A. According to him, the petitioners would be satisfied, if the respondents, as and when require personnel for doing the aforesaid jobs, engage the petitioners herein. According to him, before 2019, the respondents were issuing tenders for engagement of personnel for the aforesaid jobs but thereafter they are not issuing any tenders but they on their own engage casual labour for doing the aforesaid jobs.

3. On the other hand, learned counsel for the respondents would contest the submissions made by learned counsel for the petitioners by stating that as per his instructions, the respondents have outsourced the engagement of personnel for doing the aforesaid jobs and as such there is no question of engaging/regularising the petitioners as *Safai Karamcharis*.

4. Suffice to state that the Tribunal has rejected the O.A. filed by the petitioners seeking regularisation of service by relying upon the judgment of the Supreme Court in the case of *Secretary, State of Karnataka and Ors. v. Uma Devi and Ors., 2006 (4) SCC 1*.



5. We agree with the conclusion arrived at by the Tribunal for the reason that the engagement of the petitioners was till the year 2014-15 and it is also the case of the respondents that they have outsourced the work. On a specific query to the learned counsel for the petitioner, as to what are the qualifications possessed by the petitioners, he submits that few of the petitioners are Class Xth pass.
6. In any case, in view of the process that is being followed by the respondents outsourcing the work, it is very difficult and not appropriate in view of the settled law in *Uma Devi (supra)* for this Court to consider the prayers as made by the petitioners seeking their regularisation or for that matter their engagement in future and give directions to the respondents that as and when they require personnel they should engage the petitioners.
7. We are not inclined to interfere with the impugned order passed by the Tribunal.
8. The petition is dismissed.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

SEPTEMBER 13, 2023/ds