



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

% Date of decision: August 16, 2023

+ W.P.(C) 10663/2023, CM APPL. 41347/2023

INDIAN COUNCIL OF AGRICULTURAL RESEARCH & ORS.

..... Petitioners

Through: Mr. Rajeev Sharma, Sr. Adv. with
Mr. Gagan Mathur, Adv.

versus

SHRI YUGAL KISHORE SAH & ORS.

..... Respondents

Through: Mr. Sachin Chauhan, Adv. for R1 to
R4
Mr. Akshay Amritanshu, SPC for R9

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 interim order dated June 30, 2023 passed by the Central Administrative Tribunal ('Tribunal', for short) in Original Application NO. 1729/2023 ('OA', for short) whereby the Tribunal has stated as under:

"Learned counsel for R-2 and 3 submits that he has already filed the reply. Even though it may be a short reply, he submits that the same may be adopted as a reply to the OA.

Learned counsel for the applicant seeks and is allowed a time of one week to file rejoinder.

Mr. S.N. Verma, learned counsel for Union of India which is represented through both the Ministry of Personnel and Ministry of Agriculture, submits that no separate reply is required to be filed on behalf of Union of India. However, they



shall be providing necessary inputs to the Ministry of Agriculture to enable them to file reply, if they so wish.

Learned counsel for R-2 seeks and is allowed liberty to file a supplementary reply, if situation so warrants, after obtaining the necessary inputs.

Learned counsel for the private respondents assures that he shall be filing reply within ten days. He further submits that he is separately filing another MA seeking impleadment of ten other persons as respondents in the OA since they names also figure in the impugned seniority list and their interests are also involved.

Rejoinder, if any, may be filed within one week thereafter.

Meanwhile, learned counsel for the applicant prays for consideration of his prayer for interim relief which reads as under:

That DR Batch of Assistant of year 2017 be restrained from being considered against the vacancies in the LDCE or Section Officer for that the year 2021 & 2022 (in pursuance of Notice dated 29.11.2022 & 24.3.2023).

And/or

Any other relief which this Hon'ble Court deems fit and proper may also awarded to the applicant.

He argues that in terms of the order of this Tribunal in OA No. 1545/2020 dated 12.07.2022, the balance of convenience is in favour of the applicants as the eligibility of the private respondents as also several others for LDCE has been determined on the basis of seniority list which has been drawn in contravention to the established law affirmed by the order of this Tribunal, referred to above.

Learned counsel for R-2 and 3 vehemently opposes submitting that the seniority list is strictly drawn in accordance with the law laid down by the Hon'ble Supreme Court in Civil Appeal



*No. Civil Appeal No. 7514-7515/2005 in the case of **N.R. Parmar v/s Union of India & Others.***

*To support his opposition, learned counsel places before us a judgment of the Hon'ble Supreme Court in **Hariharan vs. Harsh Vardhan Rao** in SLP (C) No. 16161/2018 dated 14.12.2022 which has in detail discussed the implication of **K. Meghachandra Singh and Ors. Vs. Ningani Sire and Ors.** Civil Appeal No. 8833-8835/2019 case which had modified the **N.R. Parmar (supra)** judgment.*

Learned counsel for the private respondents submits that in view of his assurance to file reply very shortly, the consideration of the prayer for interim relief may be deferred till his reply is taken on record.

Learned counsel for R-2 and 3 further argues that it appears that the Tribunal is inclined to favourably consider the prayer for interim relief and in such an event, it may be restricted to a direction that the promotions made pursuant to LDCE for the year 2021-22 will be subject to the outcome of the OA.

Learned counsel for the private respondents adds that if the prayer for interim relief is considered besides the present private respondents, bona fide interests of several other persons may also be affected.

I have given a patient hearing to the learned counsel on the limited question of interim relief as set forth in para 9. I have also gone through the relevant documents on record.

Eligibility for participation in LDCE is 5 years of regular service. Accordingly, in the present case, it is Assistants recruited in the year 2017 who have participated for LDCE for vacancies of Section Officers for the year 2021-2022. According to the instructions, they would attain this eligibility only on completion of five years of service. No doubt, there is a condition that in case a person junior is entitled to participate in LDCE, the senior too would incur this eligibility irrespective of the fact whether he/she has five years of service or not.



I have given due consideration to this. However, the seniority in the present OA is under challenge and prima facie, I find that there is a merit to this challenge especially against the background of the judgment of this Tribunal in OA No 1545/2020 which has been referred to in one of the preceding paragraphs. I was also a member of the bench which had rendered this judgment.

Accordingly, I have no hesitation in allowing the interim prayer of the applicant by way of restraining the respondents from taking any consequential action with respect to the LDCE for the post of Section Officer for the year 2021-22 till the OA is finally decided.

List on 24.08.2023.

Before parting, I make it abundantly clear that this limited adjudication upon the applicant's prayer for interim relief is in no way to be construed as a comment upon the merits of the O.A."

2. On the last date of hearing, i.e., August 11, 2023 we passed the following order:

"W.P.(C) 10663/2023, CM APPL. 41347/2023

1. This writ petition lays challenge to an order dated June 30, 2023, which is in the nature of an interim order, whereby the Tribunal has state as under:

"Accordingly, I have no hesitation in allowing the interim prayer of the applicant by way of restraining the respondents from taking any consequential action with respect to the LDCE for the post of Section Officer for the year 2021-22 till the OA is finally decided."

2. The submission of Mr. Rajeev Sharma, learned Senior counsel appearing for the petitioner is, when the issue of seniority has been raised in the petition, the Tribunal should not have stated the promotion to the post of Section Officer through LDCE mode shall remain stayed.



3. *The Tribunal should have only said that any promotion made to the post of Section Officer shall be subject to the outcome of the O.A. This, according to him, would be in line with the judgments of the Supreme Court in such matters.*

4. *We note that respondent Nos. 1 to 4 are represented by Mr. Sachin Chauhan and respondent No. 9 is represented by Mr. Akshay Amritanshu.*

5. *Respondent Nos. 5 to 8 are not present before the Court today. We find that they are working in the ICAR, i.e. the petitioner herein. Appropriate for Mr. Mathur, the counsel on record for the petitioner, is to ensure that respondent Nos. 5 to 8 are informed through written communication about filing of this writ petition and calling for their presence before this Court on the next date of hearing.*

List on August 16, 2023.”

3. Today, Mr. Gagan Mathur, Adv. for the petitioners would submit that in terms of the directions given by this Court, the petitioners have informed respondent Nos. 5 to 8 about the pendency of this writ petition before this Court and also about the date of hearing being of today. He has also placed before us e-mails sent to Deepesh Aggarwal (respondent No. 5), Amit Sharma (respondent No. 6), Sandeep Kumar Ahlawat (respondent No. 7) and Kulwant Solanki (respondent No.8, who is present in person in the Court today).

4. It is a fact that e-mails have been duly sent to respondent Nos. 5 to 8. Although we have been informed that Amit Sharma (respondent No. 6) is on his way, we are of the view that the petition can be disposed of by directing the Tribunal to dispose of the OA itself on August 24, 2023 when it is listed before the Tribunal.



5. We have also been informed by respondent No. 8 that respondent No. 7 has submitted his technical resignation to the petitioners, though he has a lien on the post on which he is working with the petitioners. He also states, as per his information respondent No. 6 is not interested in the litigation.

6. Appropriate shall be that respondent Nos. 5 to 8 to file reply to the OA on or before August 21, 2023 with a copy to the learned counsel for the applicant in the OA. Mr. Chauhan states that he shall also file a rejoinder to the reply to be filed by the respondent Nos. 5 to 8 within one day thereafter.

7. Noting the aforesaid submissions, the present writ petition is disposed of directing the Tribunal to finally hear the counsel for the parties on the date of hearing, i.e., August 24, 2023 and dispose of the OA within two weeks thereafter.

CM APPL. 41347/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

ANOOP KUMAR MENDIRATTA, J

AUGUST 16, 2023/jg