



\$~
*

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 09.01.2024

+ W.P.(C) 273/2024

DELHI STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPMENT CORPORATION Petitioner

Through: Ms. Ruchika Rathi and Mr. Harshit
Gupta, Advocates.

versus

SANTOSH KUMAR AND ORS Respondents

Through: Mr. Anil Singhal, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

REKHA PALLI, J (ORAL)

CM APPL. 1227/2024

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 273/2024 AND CM APPL. 1226/2024 (Stay)

3. The present writ petition filed under Article 226 read with 227 of the Constitution of India seeks to assail the order dated 06.07.2023 passed by the learned Central Administrative Tribunal in O.A. No. 408/2021. Vide the impugned order, the learned tribunal has, by placing reliance on the decision in O.A. No. 407/2021 allowed the O.A. preferred by the respondent and has directed the petitioner/corporation to grant him minimum of the pay scale and temporary



status as per the OM issued by Department of Personnel and Training (DoPT). The learned tribunal has further directed the petitioner to consider the case of the respondent for regularisation after the decision in ***Indian Council of Agricultural Research & Ors. vs. Giri Raj Singh Pal @ Giri Raj & Ors. [SLP No.14547 /2020]***, which Special Leave Petition (SLP) is pending consideration before the Apex Court.

4. The relevant directions of the learned Tribunal as contained under the impugned order read as under:

On hearing both the learned counsel, we find that the facts in the present OA are similar to those in O.A. No. 407 /2021. Paras 14 to 17 of the judgment in O.A. No. 407/2021 read as under:

"14. In view of the above discussion, since the applicant has been working with the respondent since long, the impugned order dated 31.12.2020 is quashed and set aside. The respondents are directed to grant the applicant temporary status as Junior Stenographer by fixing her pay at the initial pay scale i.e. Rs.5200-20200/-. The applicant shall also be paid wages with reference to OM dated 20.01.2017 and 04.09.2019 irrespective of availability of regular vacancy, corresponding to a regular employee in Group C including DA, HRA and CCA. It is made clear that regularization of the applicant shall be considered after the decision rendered in Indian Council of Agricultural Research & Ors. vs. Giri Raj Singh Pal @ Giri Raj & Ors. (SLP No.14547 /2020), which is pending adjudication before the Hon'ble Supreme Court.

15. The exercise, as ordained above, shall be completed by the respondents within a period of two months from the date of receipt of a certified copy of this order.

16. The instant OA stands disposed of in the aforesaid terms.

17. There shall be no order as to costs."



The directions as quoted above shall apply mutatis mutandis in the instant case also. In the aforesaid terms, the present OA is disposed of.

5. By placing reliance on decision of the Apex Court in ***Union of India and Others vs. Ilmo Devi and Another 2021 SCC OnLine SC 899***, learned counsel for the petitioner contends that the decision to regularise employees is a policy decision which is to be left to the employer and the Court cannot issue any mandamus for regularisation. Though we are inclined to agree with the petitioner that the Courts should generally not issue any mandamus for regularisation of employees, which question is to be decided as per the regularisation policy, we find that in the present case, the learned Tribunal has not issued any direction for regularisation of the respondent. The learned tribunal has only directed the petitioner to grant them minimum of the pay scale along with temporary status so that the respondents, who have been discharging service for the last about 15-20 years receive atleast the basic benefits envisaged by the Central Government itself for such temporary workmen who continue to render service for years together.

6. We may note that it is an undisputed position that the respondents have been rendering blemishless service as Multi Tasking Staff (“MTS”) in the petitioner/corporation for last many years; their engagement in 2006 being initially through a contractor and thereafter from 2008-2009 onwards, being directly by the petitioner. In these circumstances, we are unable to appreciate as to why even after more



than 15 years of blemishless service by the respondent, the petitioner/corporation should not extend them the benefit of at least minimum of the pay scale as payable to a regular MTS and grant them temporary status as per the DoPT's OMs.

7. In so far as the petitioner's grievance that the learned Tribunal has directed it to regularise the services of the workmen is concerned, a bare perusal of the impugned order shows that the petitioner has been directed to consider the respondent's case only as per the decision of the Apex Court in *Indian Council of Agricultural Research & Ors (supra)* which SLP is still pending adjudication. It is therefore evident that the case of the respondent for regularisation will be considered as per the directions issued by the Apex Court in *Indian Council of Agricultural Research & Ors (supra)*.

8. Finally, we may also note that the petitioner has, till date, not assailed the order dated 02.06.2023 passed in O.A. NO. 407/2021 based on which the impugned order was passed.

9. We, therefore, find no reason to interfere with the impugned order. The writ petition along with all pending applications, is accordingly, dismissed.

(REKHA PALLI)
JUDGE

(TUSHAR RAO GEDELA)
JUDGE

JANUARY 9, 2024

p