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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3411/2021 & CM APPL. 10366/2021 -Stay.**
GOVT OF NCT OF DELHI & ORS. Petitioners
Through: Mr. Latika Chaudhary, Adv.

versus

DELHI FLOOD CONTROL WORKERS UNION & ORS. Respondents
Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra and Mr. Nikunj Arora, Advs.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
30.04.2024

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1. The present writ petition under Articles 226 and 227 of Constitution of India seeks to assail order dated 18.12.2018 passed by the learned Central Administrative Tribunal in OA No. 900/1999. Vide the impugned order, the learned Tribunal has allowed the original application filed by the respondent/applicant by relying on its earlier decision dated 10.08.2021 in OA No. 154/2002.
2. In support of the petition, learned counsel for the petitioners submits that the impugned order is liable to be set aside as the learned tribunal has failed to appreciate that the decision in OA 154/2001 was not applicable to the facts of the present case as unlike the said OA which pertained to skilled workers, the present case pertained to unskilled workers. Furthermore, since the respondents do not possess the educational qualifications prescribed for the post of Work Assistant under the CPWD Rules, they cannot claim



payscales as applicable to the CPWD employees. She, therefore, prays that the impugned order be set aside.

3. On the other hand Mr. Ankur Chhibber learned counsel for the respondents supports the impugned order and submits that it is not open for the petitioner at this belated stage to urge that the decision in OA 154/2001 is not applicable to the present case. By drawing our attention to the order dated 27.02.2002 passed by the learned Tribunal he submits that while dealing with the respondents' OA pertaining to the present case the petitioners had in fact on that date themselves impressed upon the learned Tribunal that hearing of the OA should be deferred to await the decision of the petitioner's challenge before this Court to the decision passed in OA 154/2001. The said order, he contends, categorically records that hearing in the OA was being deferred on account of the pendency of the petitioners' writ petition assailing the order passed in OA 154/2001. Now that the writ petition stands rejected, the petitioner cannot be permitted to urge that the said decision was wrongly applied to the respondents' case. Furthermore, even the petitioners' plea that OA 154/2001 pertained only to skilled workers is not borne out from the record, for which purpose he draws our attention to para 5 of the order dated 10.08.2001 in OA 154/2001 which clearly refers to unskilled category of worker as well.

4. Having considered the submissions of learned counsel for the parties and perused the order dated 27.02.2002 passed by the learned Tribunal in the OA out of which the impugned order arises, we are unable to accept the petitioners' plea that the decision in OA 154/2001 was not applicable to the facts of the present case. Further, we also find that the order dated 10.08.2001 passed in OA 154/2001 specifically refers to the claim of



unskilled workers as well. The petitioners' plea that the OA 154/2001 did not pertain to unskilled workers therefore deserves to be rejected. We have also considered the petitioners' plea that the respondents did not fulfil the requirement of educational qualifications prescribed under the Rules and Regulations of the CPWD but do not deem it necessary to deal with the plea as we find that neither this plea was taken by them before the Tribunal nor has been taken in the present writ petition. This plea of the petitioner is clearly an afterthought; it is too late in the date for the petitioners to now urge that the respondents did not fulfil the requisite qualifications.

5. In the light of the aforesaid and the admitted position that the decision in W.P.(C) 514/2002 wherein the Tribunal's decision dated 10.08.2001 in OA 154/2001 was assailed, has attained finality, we find absolutely no reason to interfere with the impugned order. There being no infirmity with the impugned order, the writ petition is accordingly dismissed, alongwith all pending applications.

REKHA PALLI, J

SAURABH BANERJEE, J

APRIL 30, 2024/rr