



2024:DHC:1542



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

% Judgment reserved on: 14.02.2024
Judgment pronounced on: 28.02.2024

+ **W.P.(C) 8851/2019, CM APPL.36538/2019 & 39597/2019**

SWATI GUPTA AND ANR Petitioners
Through: Mr. A.K. Singla, Senior Advocate
with Mr. Rahul Shukla, Mr Akshit
Sachdeva, Ms. Sayantani Basak
and Ms. Snigdha, Advocates

versus

UNION OF INDIA AND ORS Respondent
Through: Mr. Ruchir Mishra, Mr. Mukesh
Kr Tiwari and Ms. Reba Jena
Mishra, Advocates for UOI.

Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with Mr. N.K.
Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advocates

+ **W.P.(C) 9619/2019 & CM APPL. 39670/2019**

MADHULIKA & ANR Petitioners
Through: Mr. A.K. Singla, Senior Advocate
with Mr. Rahul Shukla, Mr Akshit
Sachdeva, Ms. Sayantani Basak
and Ms. Snigdha, Advocates

versus

UNION OF INDIA & ORS Respondents
Through: Mr. Sushil Kr Pandey, SPC and
Ms. Neha Yadav, Advocate for
UOI.

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W.P.(C) 8851/2019 & connected matters

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Ms. Avnish Ahlawat, Standing Counsel (GNCTD) with Mr. N.K. Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates

+ **W.P.(C) 3096/2020, CM APPL.5093/2021, CM APPL. 23375/2021, CM APPL. 26842/2021, CM APPL. 11006/2022, CM APPL. 15496/2022, CM APPL. 4321/2023 & CM APPL. 33235/2023**

BHARAT ARYA

..... Petitioner

Through: Mr. A.K. Singla, Senior Advocate with Mr. Rahul Shukla, Mr Akshit Sachdeva, Ms. Sayantani Basak and Ms. Snigdha, Advocates

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Ajay Digpaul, CGSC for UOI with Mr. Kamal Digpaul and Ms. Ishita Pathak, Advocates.

Ms. Avnish Ahlawat, Standing Counsel (GNCTD) with Mr. N.K. Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates

+ **W.P.(C) 3115/2020, CM APPL. 17531/2020, CM APPL. 5050/2021, CM APPL. 22837/2021, CM APPL. 26921/2021, CM APPL. 11007/2022, CM APPL. 15943/2022, CM APPL. 4311/2023 & CM APPL. 33470/2023**

VANDANA SHARMA

..... Petitioner

Through: Mr. A.K. Singla, Senior Advocate with Mr. Rahul Shukla, Mr Akshit

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Sachdeva, Ms. Sayantani Basak
and Ms. Snigdha, Advocates

versus

UNION OF INDIA & ORS
Through:

..... Respondent

Ms. Avshreya Pratap Singh and
Ms. Usha Jamal, Advocates for
UOI.

Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with Mr. N.K.
Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advocates

+ **W.P.(C) 8143/2020, CM APPL. 26426/2020, CM APPL.
5229/2021, CM APPL. 11563/2022, CM APPL. 16167/2022 &
CM APPL. 33457/2023**

SWATI GUPTA

..... Petitioner

Through: Mr. A.K. Singla, Senior Advocate
with Mr. Rahul Shukla, Mr Akshit
Sachdeva, Ms. Sayantani Basak
and Ms. Snigdha, Advocates

versus

UNION OF INDIA & ORS
Through:

..... Respondent

Mr. Sushil Kr Pandey, SPC and
Ms. Neha Yadav, Advocate for
UOI.

Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with Mr. N.K.
Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advocates

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+ **W.P.(C) 8144/2020, CM APPL. 26428/2020, CM APPL. 5108/2021, CM APPL. 11717/2022, CM APPL. 16426/2022, CM APPL. 4315/2023 & CM APPL. 33559/2023**

MADHULIKA

..... Petitioner

Through: Mr. A.K. Singla, Senior Advocate
with Mr. Rahul Shukla, Mr Akshit
Sachdeva, Ms. Sayantani Basak
and Ms. Snigdha, Advocates

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr. Ruchir Mishra, Mr. Mukesh
Kr Tiwari and Ms. Reba Jena
Mishra, Advocates for UOI.
Ms. Avnish Ahlawat, Standing
Counsel (GNCTD) with Mr. N.K.
Singh, Ms. Laavanya Kaushik,
Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advocates

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

[The proceeding has been conducted through Hybrid mode]

1. These are writ petitions under Article 226 of the Constitution of India, *inter alia*, seeking the following reliefs:-

W.P.(C) 8851/2019

"In the circumstances aforesaid, it is prayed that the Hon'ble Court be pleased to issue writ of mandamus directing respondent No.1 to release/disburse funds to respondent no.2 and 3 as per PIP submitted for FY 2019-20

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towards salaries/attending benefits attached to petitioners in service of Respondent no. 3 and

Hon'ble Court may also pass such further order(s) considered just fit, proper and expedient in the facts and circumstances of the present case."

W.P.(C) 9619/2019

"(i) Quashment of Respondent No.1 Communication No. F.No. 10(26)/2019-NHM-I/FTS-3202207 dated 12/07/2019 addressed to Respondent no.2;

(ii) Directing Respondent No. 1 to issue clarification / corrigendum on its ROP dated 05.03.2019 made on respondent No. 3's PIP dated 28.01.2019 pertaining to year 2019-2020 by dealing with Respondent No.2 and 3 representations dated 19.03.2019, 03.04.2019 and 13.05.2019

such writ(s), direction(s) or order(s) considered just fit, proper and expedient in the circumstances of the case."

W.P.(C) 3096/2020

"In the circumstances aforesaid, petitioner prays for issue of appropriate writ in the nature of mandamus or any other writ, direction or order in favour of petitioner and against the respondents be ordered to be issued thereby:

(a) declaring that petitioner's engagement in post of Laboratory Assistant in respondent No. 4's project in view of engagement terms, respondent No. 1 and 4 statement is a "contract for service", to subsists and continue until continuation of above programme by respondent no. 1 and act, actions of respondent no. 3 in reading the same as "contract appointment on deputation terms" is against law and records, and as such would neither bind petitioner nor affects petitioner's continuance in employment of respondent no.4.



(b) ordering quashment of respondent no. 3's minutes of meeting dated 02-01-2020 (Annexure-M) as illegal, ill-founded based on misconstrued and misreading of record of petitioner's engagement terms.

(c) ordering quashment of respondent no.4's email communication dated 31-03-2020 (Annexure-L) as respondent no. 3's office order dated 30-03-2020 (Annexure- L) has no application to working / implementation of respondent no. 4's programme.

(d) ordering quashment of respondent No. 3's order dated 21-04-2020 (Annexure-P) as illegal, arbitrary, invalid and perverse.

(e) Pass any such other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the facts and circumstances or the case.”

W.P.(C) 3115/2020

“In the circumstances aforesaid, petitioner prays for issue of appropriate writ in the nature of mandamus or any other writ, direction or order in favour of petitioner and against the respondents be ordered to be issued thereby:

(a) declaring that petitioner's engagement in post of Laboratory Technician in respondent No. 4's project in view of engagement terms, respondent No. 1 and 4 statement is a “contract for service”, to subsists and continue until continuation of above programme by respondent no. 1 and act, actions of respondent no. 3 in reading the same as “contract appointment on deputation terms” is against law and records, and as such would neither bind petitioner nor affects petitioner's continuance in employment of respondent no.4.

(b) ordering quashment of respondent no. 3's minutes of meeting dated 02-01-2020 (Annexure-M) as illegal, ill-founded based on misconstrued and misreading of record of petitioner's engagement terms.



(c) ordering quashment of respondent no.4's email communication dated 31-03-2020 (Annexure-L) as respondent no. 3's office order dated 30-03-2020 (Annexure- L) has no application to working / implementation of respondent no. 4's programme.

(d) ordering quashment of respondent No. 3's order dated 21-04-2020 (Annexure-P) as illegal, arbitrary, invalid and perverse.

(e) Pass any such other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the facts and circumstances or the case.”

W.P.(C) 8143/2020

“In the circumstances aforesaid and to secure ends of justice, it is, prayed that the Hon'ble Court be pleased to issue appropriate writ(s), direction(s) or order(s) against the respondents thereby ordering issue of:-

(i) Writ of mandamus directing respondents to accept petitioner's employment in IDD cell run by respondent no.4 to continue and subsist till the continuance of said programme instituted by respondent no.1 to overcome iodine deficiency disorders.

(ii) Writ of mandamus directing respondents No.2 to 4 to recognize and accept petitioner's employment in aforesaid project at part with its (respondent no.2) regular employees in accordance with respondent no.1 communication dated 03.02.2006.

(iii) Writ of mandamus directing respondents No.2 to 4 to re-frame its PIPs (Programme Implementation Plan) 2018-2019 onwards in regard to description of petitioner's employment and salary, under respondent No.4 programme, in consonance with PIPs framed and submitted with respondent no.1 for release of their ROPs in previous years.

(iv) Writ of mandamus quashing respondent No. 2 to 4 action / order allowing TDS deducted in FY 2019-20



onwards in Form 16-A (under Rule 31(i) (b)) in place of Form 16 under [Rule 31(i) (a)], the change resorted to upon misreading of petitioner's employment status in respondent no.4.

(v) Writ of mandamus directing respondent-Union of Inida to re-frame its ROP (record of proceedings) from 2018-2019 onwards on PIPs received by them from respondents No.2 to 4 in consonance with its practice for years preceding thereto i.e. 2017-2018.

(vi) Writ of mandamus ordering quashment of respondent No.1's communication dated 12.07.2019 (Annexure: P-19) as violative of petitioner's engagement terms and in disregard to respondent No.1's own acts, actions and orders approving release of funds upto 2019-2020 onwards.

(vii) Hon'ble Court may also pass/issue any other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the circumstances of the case."

W.P.(C) 8144/2020

"In the circumstances aforesaid and to secure ends of justice, it is, prayed that the Hon'ble Court be pleased to issue appropriate writ(s), direction(s) or order(s) against the respondents thereby ordering issue of:-

"In the circumstances aforesaid and to secure ends of justice, it is, prayed that the Hon'ble Court be pleased to issue appropriate writ(s), direction(s) or order(s) against the respondents thereby ordering issue of:-

(i) Writ of mandamus directing respondents to accept petitioner's employment in IDD cell run by respondent no.4 to continue and subsist till the continuance of said programme instituted by respondent no.1 to overcome iodine deficiency disorders.

(ii) Writ of mandamus directing respondents No.2 to 4 to recognize and accept petitioner's employment in aforesaid project at par with its (respondent no.2) regular employees



in accordance with respondent no.1 communication dated 03.02.2006.

(iii) Writ of mandamus directing respondents No.2 to 4 to re-frame its PIPs (Programme Implementation Plan) 2018-2019 onwards in regard to description of petitioner's employment and salary, under respondent No.4 programme, in consonance with PIPs framed and submitted with respondent no.1 for release of their ROPs in previous years.

(iv) Writ of mandamus quashing respondent No. 2 to 4 action / order allowing TDS deducted in FY 2019-20 onwards in Form 16-A (under Rule 31(i) (b)) in place of Form 16 under [Rule 31(i) (a)], the change resorted to upon misreading of petitioner's employment status in respondent no.4.

(v) Writ of mandamus directing respondent-Union of Inida to re-frame its ROP (record of proceedings) from 2018-2019 onwards on PIPs received by them from respondents No.2 to 4 in consonance with its practice for years preceding thereto i.e. 2017-2018.

(vi) Writ of mandamus ordering quashment of respondent No.1's communication dated 12.07.2019 (Annexure: P-19) as violative of petitioner's engagement terms and in disregard to respondent No.1's own acts, actions and orders approving release of funds upto 2019-2020 onwards.

(vii) Hon'ble Court may also pass/issue any other writ(s), order(s) or direction(s) considered just fit, proper and expedient in the circumstances of the case."

2. The batch of writ petitions was filed by the petitioners seeking the aforesaid reliefs. Ms. Ahlawat, learned counsel for the respondents had submitted that under the interim directions passed by this Court from time to time, the petitioners were continued in their contractual service and salaries were also being remitted.



3. Ms. Ahlawat, learned counsel refers to the order dated 03.10.2023 of the Delhi State Health Mission, National Iodine Deficiency Disorder Control Programme whereby it is clearly mentioned that Iodine deficiency is no more a public health issue in Delhi, so the National Iodine Deficiency Disorder Control Programme under the DSHM is discontinued in the Govt. of NCT of Delhi w.e.f. 03.10.2023. She submits that the activities of the iodine deficiency prevention in Delhi can be streamlined with the RCH programme under the administrative control of Director, Family Welfare and no separate programme is required in Delhi as mentioned in the order. On that basis, she submits that the Project having come to a closure by a policy decision of the government / competent authority, the need to continue to pay salaries to the petitioners who are contractual employees, also ceases. She submits that in any case the petitioners themselves sought their continuance till the project continued and now once the project has achieved its aims, the continuation is not desirable.

4. Mr. A. K. Singla, learned senior counsel appearing for the petitioners submits that the prayers in the batch of writ petitions cannot be stated to have become infructuous on the ground that directions by this Court have already been complied with. Learned senior counsel submits that so long as the project continues, the directions to pay salaries to the petitioners from the funds received by the respondents, shall also have to be continued.

5. This Court has heard the aforesaid submissions of learned senior counsel as also learned counsel for the respondents and is of the



considered opinion that the continuation or closure of a Project is a policy decision purely within the realm of the Business Rules and Administrative Exigencies of the Government and as such whether a project is required to be continued or not, keeping in view the data indicating fulfillment of such objective, is not for the Court to decide unless there is a *mala fide* in such closure. No *mala fide* is averred nor can this Court discern from either the pleadings or the order dated 03.10.2023.

6. Thus, the prayers which have been sought in the aforesaid batch of writ petitions, seeking continuation of their contractual employment or salaries and other incidental reliefs, cannot be countenanced having regard to the closure of the Project. Moreover, the petitioners have already challenged the order dated 03.10.2023 referred to above in a separate and substantive petition bearing W.P (C) No. 13727 of 2023 and as such the prayers sought in present batch of petitions have become redundant. The detailed arguments of learned senior counsel in the aforesaid writ have been heard and judgement passed thereon alongwith the present batch of petitions.

7. In view of the aforesaid, the present batch of petitions have become infructuous and are dismissed as such along with all the pending applications.

TUSHAR RAO GEDELA, J.

FEBRUARY 28, 2024/ms