



2024:DHC:8040-DB



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

+ **W.P.(C) 12449/2023 & CM APPL. 49039/2023**

UNION OF INDIA & ANR.Petitioners

Through: Mr. Sandeep Kumar
Mohapatra, CGSC with Mr. Tribhuvan and
Mr. Ishaan, Advs.

versus

SHRI HARINDER SINGH & ORS.Respondents

Through: Mr. Ankur Chhibber and Mr.
Ranjit Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

16.10.2024

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1. The respondents were outsourced Group-D cleaners working on daily wage basis, who had been employed by the petitioners through the employment exchange. Their services were discontinued by order dated 21 April 2018.

2. Alleging that the discontinuation of the respondents' service was contrary to Articles 14, 16 and 311 (2) of the Constitution of India, the respondents instituted OA 3301/2019 before the learned Central Administrative Tribunal, Principal Bench, New Delhi¹, seeking quashing of the decision to terminate their services and regularisation of their services. To press their case, the respondents

Signature Not Verified¹ "the learned Tribunal", hereinafter

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contended that they have put in more than ten years of service under the petitioners. The respondents contended that, after disengaging their services, the petitioners were seeking to float a tender to induct, by outsourcing, fresh persons as cleaners (MTS) through a private contractor. They, therefore, also invoked the principle that one casual worker could not be replaced by another casual worker, to challenge their termination and engagement of others in their place.

3. It appears, from the impugned judgment, that the learned Tribunal has proceeded on a complete tangent. Para 6 of the impugned judgment reads thus:

“6. Learned counsel for the applicants has drawn our attention to decisions of the Hon'ble Supreme Court wherein Hon'ble Supreme Court dealt with this issue by relying upon the decision in *M.M.R. Khan v UOI*², and ultimately was of the view at para 18 that the respondents should consider the regularization of the appellants who was serving as canteen workers in consonance with the principles laid down in the *State of Karnataka v Uma Devi*³. The said para is reproduced below:-

“18. Therefore, in the light of the settled principle enunciated hereinabove, we hold that the subject Canteen is a 'Statutory Canteen' under the Factories Act, 1948 and that the learned Single Judge had arrived at the correct conclusion. In our opinion, the Division Bench of the High Court was not correct in taking a contrary view. We, therefore, allow these Appeals. We set aside the impugned Judgment passed by the High Court, and direct the Respondents to treat the subject Canteen at Moradabad as a Statutory Canteen either under Section 46 of the Act or the relevant clauses of the Indian Railway Establishment Management. However, so far as the Appellants are concerned, we find difficult to condone or ignore the fact that they were not appointed as per the regular recruitment procedure. To pass an order regularizing the services of all workers employed therein would necessarily imply ratification of appointments given outside the

² 1990 Supp SCC 191

³ AIR 2006 SC 1806



Constitutional scheme. We therefore, direct the Respondents to consider regularizing the services of the Appellants presently serving as canteen workers in consonance with the principles laid down in *Secretary, State of Karnataka v Uma Devi* and take requisite action within six months of the receipt of this Judgment. Further, as and when the subject posts fall vacant the Respondents shall be bound to fill the posts by a regular process of selection. The Appellants in the present case shall be allowed to compete in the regular recruitment and the Respondents shall grant to them appropriate age relaxation as well as grant proper weightage for their having worked in the subject Canteen.

19. There cannot be any cavil that the necessity for canteen amenities to be available where more than 260 workmen are engaged, is an essential facet of human or labour rights. Managements and employers are duty bound to provide these basic facilities.”

4. It may be noted, here, that the impugned judgment of the learned Tribunal does not disclose either the cause title, or the citation, of the judgement of the Supreme Court, from which the learned Tribunal has extracted the passages in para 6. A free text search on the internet reveals, however, that the extract is from the judgment of the Supreme Court in *Mohan Singh v The Chairman, Railway Board*⁴.

5. The decisions in *Mohan Singh* and *M.M.R. Khan*, on which learned Tribunal relies, were passed in the case of statutory canteen workers in the Railways. The dispute in those cases was whether they were entitled to be regularised as Railway employees. No similarity, much less commonality, between the controversy in issue in *Mohan Singh* and *M.M.R. Khan* and the issue in controversy before the learned Tribunal in the present case, therefore, exists.

⁴ (2015) 10 SCC 759



6. After having extracted the aforesaid passages from *Mohan Singh*, the learned Tribunal has invoked Article 141 of the Constitution of India to state that the judgment of the Supreme Court is binding on all courts in the country and has, therefore, directed the petitioner to consider the case of the respondents in the light of the Constitution Bench decision in *Uma Devi*, as was directed in *M.M.R. Khan* and *Mohan Singh*.

7. There can be no cavil with the proposition that, under Article 141, the declaration of the law by the Supreme Court binds all authorities. Unfortunately, however, the judgment on which the learned Tribunal has placed reliance has nothing to do with the controversy in issue.

8. We, therefore, have no option but to quash and set aside the impugned judgment dated 9 December 2022 passed by the learned Tribunal and remand the OA 3301/2019 to the learned Tribunal for consideration afresh.

9. In order to expedite matters, both sides would present themselves before the learned Tribunal on 6 November 2024.

10. The learned Tribunal is requested to decide the matter as expeditiously, and if possible, within a period of six weeks from the said date.



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11. The petition stands allowed to the aforesaid extent.

C. HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 16, 2024

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Click here to check corrigendum, if any

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