



2024:DHC:8231-DB



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

Date of decision: 23.10.2024

+ W.P.(C) 9166/2024

NISHANT KUMAR SINHA & ORS.Petitioners

Through: Mr. Harpreet Singh, Adv.

versus

GOVT. OF NCT OF DELHI & ORS.Respondents

Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza
Alam and Mr. Mohnish
Sehrawat, Advs. for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

CM APPL. 37502/2024 (Exemption)

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

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3. The present petition under Articles 226 and 227 of the Constitution of India has been filed by the petitioners challenging the Order dated 31.05.2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as



‘CAT’) in OA No. 3730/2022, whereby the learned CAT has declined to grant the relief with regard to continuity of the service of the petitioners as Nursing Personnel (Temporary).

4. Before the learned CAT, it was the case of the petitioners that the petitioners, pursuant to a notice issued on 01.05.2021, had been appointed to manage 500 ICU bed facility in Ram Leela ground for COVID-19 patients. Their services were continued on a regular basis, when suddenly, by an office Order dated 01.12.2022, their services were sought to be discontinued beyond 31.12.2022. Aggrieved by the same, the petitioners approached the learned CAT by way of the above application. The learned CAT found favour with the claim of the petitioners, and disposed of the above OA alongwith the other Original Applications, with the following directions:-

“7. In view of the aforesaid, the present OAs are partly allowed with the following directions/orders:-

(i) The respondents shall be bound by their statement regarding payment of admissible dues, salary, perks, etc. to the applicants as recorded hereinabove in para 8 of Order dated 8.5.2024, which is reproduced in para 1 above;

(ii) The respondents shall continue the applicants in preference to any junior(s) and fresher(s) on daily wages/contractual basis engaged directly and/or through any outsourcing agency;

(iii) The respondents shall take an appropriate decision in respect of grant of relaxation of age and/or for additional weightage in view of notification dated 3.5.2021 of the Govt. of India, Ministry of Health and Family Welfare, referred to hereinabove while considering them for appointment on regular basis; and

(iv) The aforesaid directions shall be complied



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with by the respondents as expeditiously as possible and preferably within eight weeks of receipt of a copy of this Order.”

5. The petitioners are aggrieved of the said order inasmuch as it does not direct the respondents to continue with the services of the petitioners.

6. The learned counsel for the petitioners places reliance on the judgment of this Court in ***Narinder Singh Ahuja & Others v. The Secretary, Ministry of Health & Family Welfare*** (W.P.(C) No. 1741/2014, decided on 03.11.2014) and on the Judgment of the learned CAT in ***Shikha Jain v. Ministry of Health and Family Welfare*** (O.A. No. 100/2149/2016, decided on 12.08.2016), to submit that once the learned CAT found that the work performed by the petitioners is perennial in nature, their services should have been directed to be continued by the respondents till regular appointments are made.

7. This Court by an Order dated 18.07.2024, considering the above contentions and taking note of the fact that the hospitals have advertised 115 vacancies, on a plea of the petitioners that there were other vacancies as well, directed the petitioners to submit an additional affidavit in this regard. The same has been filed by the petitioners, claiming therein that there are huge vacancies in various hospitals.

8. The above stand of the petitioners is disputed by the learned counsel for the respondents.

9. Without further going into the above controversy, we are of the opinion that the learned CAT in its Impugned Order has protected the interest of the petitioners by directing that the respondents shall



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continue with the petitioners in preference to any junior and fresher on a daily wages/contractual basis engaged directly and/or through any other outsourcing agency. The respondents have also been directed to grant relaxation of the age and additional weightage to the petitioners in matters of appointment. The interest of the petitioners is, therefore, adequately protected by the directions of the learned CAT in the Impugned Order dated 31.05.2024.

10. We are also informed that the petitioners already stand removed from service. It is not the case of the petitioners that they have been replaced by any third person.

11. In view of the above, no further directions are required to be passed in the present petition. The same is, accordingly, disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 23, 2024
SU/PU/B/as

Click here to check corrigendum, if any