



2024:DHC:5554



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

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Date of Decision: 23.07.2024+ **W.P.(C) 16457/2022 & CM APPL. 51679/2022****SANTOSH BEHURIA & ORS**

.....Petitioners

Through: Mr. Manish Kumar, Mr. Varun
Kathuria and Mr. Rohit Kumar, Advs.

versus

RAJPUTANA RIFLES REGIMENTAL CENTRE AND ANR

.....Respondents

Through: Ms. Anju Gupta, Mr. Siddharth
Gupta, Advs. for UOI.

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The grievance of the Petitioners [9 in number] as articulated in the prayer in the present Petition reads as follows:

“a. Pass appropriate writ, order or direction in the nature of writ of mandamus directing the Respondent No 1 and 2, not to dispense with the services of the petitioners during the pendency of the industrial dispute/proceedings before the Asst. Labour Commissioner/Labour Court in view of the embargo of Section 33 of the ID Act 1947 and/or the alleged contractual appointments of the petitioners may not be replaced by other/fresh contractual appointments.”

2. Learned Counsel appearing on behalf of the Petitioners submits that the prayer in the present Petition is confined to a direction to the Respondents to continue with the services of the Petitioners, who have been working with the Respondent No. 1, till the adjudication of the Industrial Dispute as raised by the Petitioners before the Assistant Labour



Commissioner.

3. Learned Counsel appearing on behalf of the Petitioners submits that the Petitioners apprehend that the Respondent No. 1 may terminate their services despite the fact that a dispute is pending adjudication. He further states that during the period that proceedings are pending, under Section 33 of the Industrial Disputes Act, 1947 [hereinafter referred as “the Act”], the service condition(s) of the workmen cannot be disturbed.

4. Learned Counsel appearing on behalf of the Respondent No. 1 has filed its Counter-Affidavit that the Petitioner/Workmen are non-contractual employees and were appointed on the basis of monthly wages, and are not entitled to any regularisation. However, this is the subject matter of the Industrial Dispute which has been raised before the Assistant Labour Commissioner.

5. It is not in dispute that the Petitioners have already approached the Assistant Labour Commissioner for the adjudication of dispute, which is pending adjudication. The Statement of Claim dated 28.11.2022 filed before Deputy Labour Commissioner (Central), 4th floor, Jeevan Deep Building, Parliament Street, New Delhi is filed along with the Petition.

6. Section 33(1)(a) of the Act specifically provides that no employer shall alter the conditions of service applicable to the workmen to the prejudice of the workmen during the pendency of proceedings before the Conciliation Officer or a Board or any proceeding before an Arbitrator or a Labour Court or Tribunal. Section 33 (1) (a) reads as follows:

“33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before 2 [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—



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(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding.....”

7. A review of this provision shows that if a matter is pending before the Industrial Tribunal, the conditions of the services of the workman who is part of such proceedings, shall remain unchanged during the pendency of such industrial dispute.

8. In these circumstances, no order is required to be passed in the present Petition. However, it is made clear that the services of the Petitioners shall not be disturbed and *status quo* in regard to their employment shall be maintained during the pendency of the dispute before the Deputy Labour Commissioner (Central), 4th floor, Jeevan Deep Building, Parliament Street, New Delhi.

9. The Petition and all pending Applications, are accordingly, disposed of.

10. Parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 23, 2024/r

[Click here to check corrigendum, if any](#)