

(2022) 07 DEL CK 0066

In the Delhi High Court

Case No : Civil Writ Petition No. 9570 Of 2015

Desh Deepak Srivastava & Ors

APPELLANT

Vs

Delhi High Court & Anr

RESPONDENT

Date of Decision : 18-07-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 07 DEL CK 0066

Hon'ble Judges : Vibhu Bakhru, J; Amit Mahajan, J

Bench : Division Bench

Advocate : Utkarsh Sirohi, Pranav Gupta, Anu Bagai, Avnish Ahlawat, Siddhant Tyagi

Final Decision : Dismissed

Judgement

Amit Mahajan, J

1. A National Policy and Action Plan for implementation of information and communication technology (referred to as "ICT") in the Indian Judiciary, was promulgated by the e-Committee, Supreme Court of India in the year 2005. The policy sought to achieve its objectives through its implementation in a phased manner over a period of five years. Needless to say, the creation of the infrastructure involved appointment of technical and support staff in addition to allied infrastructure such as computers, laptops, printers, scanners and other office infrastructure. Pursuant thereto, an office order was issued by the Government of India, Ministry of Law and Justice, dated 30.09.2010 for implementation of project of computerization of 13348 district and subordinate courts in 2100 Court complexes all over the country and also the upgradation of ICT infrastructure of the Supreme Court and the High Courts in a period of two years. By the said office order, the Government of India revised the cost estimates for the creation of e-courts from ₹ 441.80 crores to ₹ 935 crores. The timelines were also provided for upgradation of the ICT.

2. High Court of Delhi issued an advertisement dated 27.05.2011 inviting applications for filling up the positions of "System Officer" and "System Assistants" to be deployed in subordinate courts. It specifically mentioned that the said positions are purely on temporary and contractual basis for a fixed period and are funded by the Government of India, e-Courts mission mode project and are co-terminus with the said project. Petitioners on being successful in their applications were given temporary employment and were assigned responsibilities of System Officers and System Assistants. Some of the responsibilities were: (a) uploading of daily cause list, (b) uploading of judgments, (c) uploading of daily orders, (d) uploading of case status, etc.

3. The appointment letters issued to the petitioners specifically mentioned that the positions are purely on temporary and contractual basis for a fixed period, funded by the Government of India. It also mentioned that the services are liable to be terminated without any notice and/or assigning any reason thereof, and that the person will not have any right to regular/continuous service as a System Officer.

4. The services of the petitioner were finally terminated w.e.f. 28.02.2015. The petitioners then gave a representation to the High Court seeking absorption in the regular Cadre of the Court.

5. The non-consideration of their representation and issuance of a fresh vacancy notice dated 22.7.2015 by the High Court of Delhi for appointments to the post of Junior Judicial Assistant (Technical) (hereinafter referred to as "JJA(T)") led to filing of the present writ petition.

6. It is pertinent to mention that the High Court had relaxed the educational qualifications and age for the post of JJA(T) for the existing Data Entry Operators presently working in the Court on contractual basis as a one-time measure. Four out of twelve petitioners also applied against advertisements and their candidature were found to be eligible in terms of the eligibility criteria mentioned in the said advertisement.

7. It is contended by the learned counsel for the petitioner that the similarly placed employees who were given contractual employment under the same policy in various states such as Tripura, Orissa, West Bengal, Rajasthan and Chhattisgarh have been absorbed by the High Courts after framing necessary rules. He relies upon the notification issued by the High Court of Tripura Notification bearing No. F.6 (10)-HC/10-13/11057 dated 29.07.2013 notifying the High Court of Tripura E-Courts Services (Appointment, Conditions of service & Conduct) Rules, 2013 vide. It is further contended that the National Policy and Action Plan for implementation of ICT in Indian Judiciary, as prepared by the e-Committee of the Hon'ble Supreme Court, also contemplates absorbing the technical manpower engaged during the establishment of e-Courts in the regular Cadre. The petitioners further contended that they have completed their tenure and fulfilled the duties assigned to them with devotion, honesty and sincerity.

8. The counter affidavit has been filed by Respondent No. 1 opposing the prayer sought in the present writ petition. It is contended that the petitioners were appointed as System Officers and System Assistants on purely temporary and contractual basis for a fixed period for utilization of their services in District Courts. On completion of the contractual period their services were terminated by the termination letter No.4790/Comp./DHC dated 27.02.2015 and corrigendum No.142/Comp./DHC dated 28.02.2015 issued by the Joint Registrar (judl) (Rules) and CPC, Delhi High Court as they do not have any right to seek absorption. It is contended that they do not have any Constitutional/ Statutory/ vested or legal right, which can be enforced against Respondent No. 1 by filing a writ petition under Article 226 of the Constitution of India. The appointment was purely on temporary and contractual basis for a fixed period as is evident from the appointment letter issued to the petitioners. The petitioners cannot seek quashing of the vacancy notice dated 22.07.2015 issued by Respondent No. 1 for filling up the vacancies of those of JJA(T) as the petitioners were never appointed against any regular post. It is thus contended that there is no illegality or perversity in terminating the contractual services. It is further contended that the reliance of the petitioner on National Policy and Action Plan for implementation of ICT in the Indian Judiciary is misplaced inasmuch as the Chapter 1.6 Part 1 dealing with creation of Cadre of troubleshooters for each Court complex provides that the recruitment of skilled manpower will be for a fixed period during the implementation of the project. Though it provides that the skilled manpower can be absorbed in the system as part of its Establishment as of necessity; the expression used is "can" and not "shall". Therefore, it is not mandatory that the manpower be absorbed as part of its Establishment. Further, there is no fundamental right in those who have been employed or temporarily or on contractual or ad hoc basis to claim that they have a right to be absorbed in service.

9. We have heard the arguments advanced on behalf of both the parties. The writ petition seeking relief of absorption of petitioners and setting aside of vacancy notice issued by the High Court for appointment of JJA(T) is misconceived.

10. It is an admitted fact that the petitioners were appointed in terms of the appointment letter No.6969/Comp./DHC dated 13.03.2012 issued by Respondent No.1, purely on temporary and contractual basis for a fixed period under e-courts mission project funded by Government of India and their appointments were co-terminus with the said project. Petitioners joined the services fully aware of the terms and conditions of their employment in terms of the advertisement No.424/Comp./DHC dated 27.05.2011 which was purely on temporary and contractual basis for a fixed period. They were fully aware that the services were liable to be terminated without any notice and/or assigning any reason thereof. Further, the appointment letters mentioned that the officers so appointed will not have any right to claim regular/continuing service as System Officers in the Courts. The petitioners after having taken advantage of such appointment for a period of

three years cannot now claim that their services be regularized disregarding the terms of their appointment. It is also a matter of fact that Delhi High Court, pursuant to the meeting of the Chairperson of the High Court Computer Committee held on 14th-15th, February, 2015, under the aegis of the e-Committee at Supreme Court, had taken a decision to return the unspent funds released by NIC to the High Court for the above purposes. Pursuant thereto, a sum of ₹ 1,66,167.10 was returned to NIC by the Delhi High Court, thereby, leaving nothing to support the salaries of persons temporarily employed such as petitioners.

11. Such appointment if granted would fall foul of the law laid down by the Hon'ble Apex Court in the case of *State of Karnataka v. Uma Devi*.

12. It is also settled law that even if a Scheme has been in operation for some decades or that the employee concerned has continued on ad hoc basis for decades, it would not entitle the employee to seek permanency or regularisation.

13. In *Mohd. Abdul Kadir v. DGP*, (2009) 6 SCC 611, the Supreme Court observed as under:

"15. On completion of the project or discontinuance of the scheme, those who were engaged with reference to or in connection with such project or scheme cannot claim any right to continue in service, nor seek regularisation in some other project or service."

Similarly the Hon'ble Apex court in *Resmi R S v. Government of India*, 2019 SCC 2649 held that:

"9. That contractual employees under a Scheme can have no right to claim that they are entitled to continue in service after the agreed term of contract is over.

10. who had been engaged on contract basis have no right to insist that they are to be permitted to continue after the term of contract has expired."

14. A perusal of the policy and action Plan Document Phase II of the e-courts project under the Chapter Human Resources, makes it abundantly clear that the policy only recognized the need for the technical assistance till such time the technical manpower is permanently recruited. It recognized that the exercise of recruitment of permanent technical manpower is likely to take a number of years in the light of the need to find the funds, finalize the recruitment rules, undertake recruitment and eventually placing the selected candidates at the disposal of Courts. Therefore, in the meanwhile, a stop-gap arrangement was recognized to be put in place for the project duration so as to ensure that the necessary technical assistance continues to be available to Courts. Respondent No. 1 has filed an affidavit categorically stating that the appointment of the petitioners was made keeping in mind the above-mentioned stop-gap arrangement so as to ensure that the necessary technical assistance continues to be available to Courts.

15. Even otherwise, the petitioners who were contractual employees in the Establishment of District Court cannot claim any right to regularization or absorption by the Establishment of Delhi High Court as the two are totally independent and separate Establishments. It is also apparent that vacancy notice dated 22.07.2015 issued for filling the posts of JJA(T) in Delhi High Court are not connected with the vacancies notified by the said vacancy notice. The petitioners seem to have been performing a similar nature of work but they were not appointed against such vacancies. It is also a matter of fact that four out of twelve petitioners have applied against the advertisement issued by Delhi High Court and their candidature was found to be provisionally eligible in terms of the eligibility conditions mentioned in the said advertisement. The petitioners who had been appointed in the Establishment of District Court and now discontinued cannot claim lien or right of absorption against the vacancies sought to be filled by the Delhi High Court as the petitioners in the present writ petition were neither appointed nor discontinued by the Establishment Branch of the High Court of Delhi.

16. The petitioners in the instant writ petition, who were engaged on contractual basis as "System Officer" and "System Assistant" in the subordinate courts to the Delhi High Court, i.e. Office of District & Sessions Judge, Delhi under e-Courts Mission Mode project, have no connection with the appointments with the Delhi High Court establishment pursuant to vacancy circular dated 22.7.2015. The post for which vacancy notice was issued by Delhi High Court for appointment to the post of JJA(T) was created and rules were framed vide orders dated 13.03.2013 of the Chairman, Computer Committee, Delhi High Court, which was constituted to examine the matter regarding creation of posts and framing of recruitment rules/ Cadre structure for technical management of the computer system of Delhi High Court. The same was approved by the Hon'ble Chief Justice on 18.04.2013. The vacancy notice dated 22.07.2015 issued by Delhi High Court for appointment to the post of JJA(T) in Delhi High Court thus has no connection with the petitioners, who were engaged on contractual basis and were deployed in subordinate Courts purely on temporary and contractual basis.

17. We, therefore, find no merit in the present writ petition. The same is dismissed with no orders as to cost.