
(2021) 03 DEL CK 0333

In the Delhi High Court

Case No : Civil Writ Petition No. 3702 Of 2021, Civil Miscellaneous Application No. 11224, 11226 Of 2021

Pankaj Kumar & Ors

APPELLANT

Vs

East Delhi Municipal Corporation

RESPONDENT

Date of Decision : 22-03-2021

Acts Referred:

Constitution Of India, 1950 — Article 14, 226

Citation : (2021) 03 DEL CK 0333

Hon'ble Judges : Rajiv Sahai Endlaw, J; Amit Bansal, J

Bench : Division Bench

Advocate : Rajiv Agarwal, L. Gangmei, Meghna De, Namrata Mukim, Garima Jindal

Final Decision : Dismissed

Judgement

CM APPL. 11225/2021 (for exemption)

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P.(C) 3702/2021

3. The eleven petitioners are aggrieved from the order dated 6th January, 2021 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi in OA No.12/2021 preferred by them along with one other.

4. The aforesaid OA was preferred, claiming that the petitioners were working as Primary Teachers on contractual basis in the respondent East Delhi Municipal Corporation (EDMC), for about ten years prior to the institution of the OA, and seeking a direction to the respondent EDMC to regularise the services of the petitioners, instead of extending them year after year, always keeping them under fear of non-extension.

5. CAT, in the impugned order has reasoned (i) that it was not in dispute that regular selections for teachers were also taking place year after year; (ii) that the petitioners, either did not take part in the regular selections or were not successful therein; (iii) that in *Secretary, State of Karnataka Vs. Umadevi*(3) (2006) 4 SCC 1, the practice of engaging employees on contractual basis, against regular vacancies, was deprecated and it was directed that as a one-time measure, scheme be framed for regularisation of contractual employees working against regular vacancies; (iv) that the aforesaid however was subject to the condition that the employees possess requisite qualifications; (v) that the petitioners herein had chosen not to participate in the regular selection process, which indeed had taken place; (vi) that the en bloc regularisation of services of contractual employees, as soon as they complete ten years of engagement, was unknown to law.

6. The OA was accordingly disposed of, with direction to the respondent EDMC, that in case the respondent EDMC framed a scheme for regularisation of contractual teachers, the petitioners shall also be considered and would be entitled to benefit of relaxation of age limit to the extent permissible in law.

7. Finding the order of CAT to be in accordance with law, we have enquired from the counsel for the petitioners, the error therein and/or in exercise of which power, relief can be granted to the petitioners.

8. Obviously, there is none.

9. The counsel for the petitioners however states that in another identical matter, being W.P. (C) 11693/2019 titled *Deen Bandhu Garg and Ors. Vs. South Delhi Municipal Corporation and Ors.*, notice has been issued and the said petition is listed for final disposal on 20th August, 2021.

10. The counsel for the respondent, appearing in advance notice, states that the facts of *Deen Bandhu Garg* (supra) are different.

11. We have however still enquired from the counsel for the petitioners, the basis on which this Court, in exercise of power under Article 226 of the Constitution of India, can order regularisation. In our opinion, it is not open for us to do so. We may mention that though in *Maharashtra State Road Transport Corporation Vs. Casteribe Rajya P. Karmchari Sanghatana* (2009) 8 SCC 556 it was held that *Umadevi* supra is an authoritative pronouncement for the proposition that High Courts and Supreme Court, under Articles 226 and 32 of Constitution of India respectively, should not issue directions for regularisation on permanent continuance of temporary/contractual employees unless recruitment itself was made regularly in terms of constitutional scheme and did not denude the Industrial and Labour Courts from issuing directions for regularization in a matter of public employment, but recently in *Oil and Natural Gas Corporation Vs. Krishan Gopal* 2020 SCC OnLine SC 150 it was held that wide as the powers are of Labour and Industrial Courts, they do not extend to a direction to order regularization; where such a direction would in the context of public

employment, offend the provisions contained in Article 14 of Constitution of India.

12. The counsel for the petitioner is unable to controvert.

13. Once it is so, no purpose will be served in merely issuing notice and keeping this petition pending, thereby again lulling the petitioners into inaction.

14. Dismissed.