

(2005) 11 DEL CK 0117

In the Delhi High Court

Case No : Cont.Case (C) No. 363 of 2002

Raman Kumar and Others

APPELLANT

Vs

Shri Ashwini Kumar and Another

RESPONDENT

Date of Decision : 18-11-2005

Acts Referred:

Citation : (2006) 126 DLT 397

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Barun Kumar Sinha, for the Appellant; Amit Andley, for R-2 Tani Sudan, for the Respondent

Final Decision : Disposed Off

Judgement

Pradeep Nandrajog, J.—Petitioners Rekha Gosain, Raman Kumar, Sunita Nangia and Lokesh Sharma were employed on casual basis as Work Assistants (Demonstrator and Fitter) by Delhi Energy Development Agency (DEDA), an undertaking of the Government of NCT Delhi. The said post is "Group-C" post.

2. They were relieved vide orders dated 31.6.1998 stating that their services were no longer required.

3. They Along with a few other similarly situate persons filed writ petitions in this court. The two writ petitions filed were numbered as WP(C) No. 5418/198 and 410/1998.

4. On 7.11.2001, the writ petitions were disposed of. Claim for regularization and quashing of the orders dispensing their services were rejected. However, directions were issued that a list of all group (C) and (D) employees would be circulated to all heads of various departments as also autonomous bodies and societies under Delhi Government with a direction from the Principal Secretary (Services) that the persons in the list should be given preference in filling up future vacancies keeping in view the educational qualification and experience. It was further directed that the Principal Secretary (Services) shall monitor the

absorption of the persons on a regular basis till they are suitably absorbed.

5. It is asserted in the contempt petitions that the respondents have violated the directions aforesaid by not circulating their names to the departments under the Government of NCT Delhi for absorption.

6. In response to the contempt petition, it is stated that notwithstanding the fact that the petitioners were employed as casual workers to a "Group-C" post, they were absorbed on permanent basis to "Group-D" posts prior to order dated 7.11.2001 being passed by this court and accordingly their names were not circulated to the various departments of the Government of NCT Delhi pertaining to "Group-C" post.

7. In rejoinder, it is stated that the petitioners joined "Group-D" post out of compulsion for the reason they were without a job. In reference to Sh. Anand Kumar and Ms. Harbeer Kaur, it is stated that these two persons were likewise absorbed to a post in "Group-D" but their names were included in the list of employees falling in "Group-C" and circulated to the various departments of Government of NCT Delhi. Pursuant thereto, the two were appointed as LDCs, a "Group-C" post.

8. It was urged by learned counsel for the petitioner that the factum of the petitioners being permanently absorbed in "Group-D" post was known to the respondents when writ petitions filed by them were disposed of on 7.11.2001. This fact was also known to the petitioners. None brought this to the notice of the court for the reason each treated the said fact as redundant and not relevant for the purposes of adjudication of the controversy brought before the court in the writ petitions. Counsel urged that the mandate of the order passed by this court required listing of the names of all "Group-C" employees as also "Group-D" employees who were working as casual employees when their services were terminated and circulation of the list to the various departments of the Government of NCT Delhi.

9. Every violation of that order passed by a court would not constitute contempt of court, if it is revealed that the party in breach acted without contemptuous intent and acted bonafide led to believe that its actions are correct. On the principle of law aforesaid, I do not find that the respondent has committed contempt of the orders passed by this court. It is evident that the respondents remained under a bonafide belief that only those who remained to be absorbed to any post, had to be included in the list to be circulated to various government departments. Since petitioners were absorbed to a "Group-D" post, respondents bonafide believed that the claim of the petitioners was satisfied.

10. What the respondent did not consider was that the petitioners were working to a "Group-C" post when their services were dispensed with in the year 1988. They were laying a claim for absorption to a "Group-C" post. If due to poverty and unemployment, petitioners were forced to accept a "Group-D" post did not mean that they lost the benefit of being considered for absorption to a "Group-c"

post in any other department of the Government of NCT Delhi or autonomous body under the administrative control of the Government of NCT Delhi.

11. While discharging the notice of contempt, I direct the respondents to circulate the names of the petitioners within four weeks from today by preparing a supplementary list of "Group-C" candidates. While circulating the list, mandate of the order dated 7.11.2001 passed in WP(C) No. 5418/1998 and connected petitions would be obeyed by the respondent as clarified and explained hereinabove.

12. No costs.