

(2017) 01 DEL CK 0284

In the Delhi High Court

Case No : 2559 of 2015

SHANKAR MALI & ORS.

APPELLANT

Vs

ACHLA SINGH & ANR.

RESPONDENT

Date of Decision : 11-01-2017

Acts Referred:

Citation : (2017) 01 DEL CK 0284

Hon'ble Judges : Sanjiv Khanna, Chander Shekhar

Bench : DIVISION BENCH

Advocate : Vivek Sharma, Santosh Kumar Tripathi, Rizwan

Judgement

1. The petitioners, five in number, by this writ petition have impugned the order dated 15th October, 2014 whereby CP No. 530/2013 in OA No. 893/2012 filed by them has been dismissed.

2. The grievance of the petitioners is alleged non-compliance of the order dated 22nd February, 2013 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) in OA No. 893/2012, which had directed as under:- "10. In view of the aforementioned particular stand taken by the respondents in para nos. 4.21 and 4.05 of the counter reply and the order dated 28.01.2004 passed by the Hon'ble High Court, present Original Application is disposed of with the direction to respondents to-

(i) Consider the applicants for their regularization as and when they propose to make regular appointment of Group "D" employees in terms of the stand taken by them in para nos. 4.21 and 4.5 of the counter reply and while doing so, they would take into account the services rendered by the applicants with the effect from the dates mentioned in para 4.2 of the Original Application and also their seniority reflected in the seniority list annexed with the WP(C) No. 4436/2003."

3. The aforesaid directions refers to the order dated 28th January, 2004 passed by the Delhi High Court in Writ Petition (Civil) No. 4436/2003, Chandrawati and Others versus NCT of Delhi and Others. This order reads as under:- "Petitioners

were engaged as part time workers in Lampur Beggars home. Their services were done away with from 21.1.2003. They challenged this in OA 448/2003 seeking re-engagement and regularisation of their services. Their OA was disposed of by impugned order dated 30.5.2003 requiring respondents, on the basis of stand taken by them in their reply before Tribunal to consider them for regularisation against Group D posts when this strength of beggars increases in Lampur Beggars home as per their eligibility and according to the recruitment rules in their quota and reserved category.

Petitioners felt partially aggrieved on the direction passed in the impugned order and their limited grievance is that respondents should be required to accord consideration to them not only in reference to increase in the strength of beggars at Lampur beggars home but in other homes of the Social Welfare Department also as per their seniority reflected in tentative seniority list prepared by the Social Welfare Department in which they are admittedly figuring.

Mr. Kailash Gambhir appearing for respondents on advance notice states at bar that these petitioners shall be considered against Group D posts available in other beggar homes also as per their seniority and their eligibility in accordance with the recruitment rules in their quota. That redresses petitioners grievance and leads to the disposal of this petition by providing that respondents shall consider petitioners for regularisation against Group D posts as per their seniority reflected in the seniority list annexure P/3 to the petition and as per their eligibility in accordance with the recruitment rules in their respective reserved category."

4. We are in agreement with the Tribunal that the respondents have not committed contempt. The impugned order dated 15th October, 2014 records that in terms of OM dated 30th April, 2010, no recruitment at Group D posts is permissible and hence it is not possible to consider the case of the petitioners for regularisation.

5. Counsel for the petitioners submits that the name of the petitioners were included in the seniority list dated 28th January, 2003. This list has been referred to in the order of the High Court dated 28th January, 2004 in W.P.(C) No. 4436/2003 quoted above, as Annexure P-3. Subsequently, the respondents deleted their names from the seniority list on the ground that the services of the petitioners as part time sweepers was dispensed with on 21st January, 2002 and they were re-employed as part time sweepers on 23rd June, 2011. Thus, they had not worked as part time sweepers for about nine years.

6. The contention of the petitioners is that they have been throughout challenging and questioning their disengagement as part time sweepers by the respondents with effect from 21st January, 2002. It is pointed out that the petitioners had first approached the Tribunal by way of OA No. 1556/2001, which was filed in January, 2001 seeking regularisation.

7. There may be some merit in the contention raised by the petitioners

questioning the stand taken by the respondent on exclusion/deletion of their names from the seniority list published on 18th November, 2010, after their names were included in the seniority list published on 28th January, 2003. This issue or lis has to be examined and decided. The contempt proceedings initiated by the petitioners may not be the appropriate proceedings to decide this controversy. Moreover, we need not examine the said controversy and issue as the respondents have made a categorical statement that there is no proposal for regularisation and this is not being considered. The issue of seniority would only come up when there is a proposal and appointments are being made on regular basis. The petitioners, we clarify, would be at that time entitled to raise the said contention with the respondents and if aggrieved, file appropriate proceedings. With the aforesaid clarification, we dismiss the present writ petition.