
(2009) 08 DEL CK 0300

In the Delhi High Court

Case No : Writ Petition (C) No. 10901 of 2009

Shri Bal Kishan and Another

APPELLANT

Vs

Bhagini Nivedita College

RESPONDENT

Date of Decision : 18-08-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2009) 08 DEL CK 0300

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : Anuj Aggarwal, for the Appellant; Vikas Sethi, for the Respondent

Final Decision : Dismissed

Judgement

S.N. Aggarwal, J.—This writ petition has been filed by two workmen who were working with the respondent college on ad-hoc basis intermittently during the period from 02.02.1994 to 31.07.1996. They aggrieved by non-extension of their ad-hoc appointment raised an industrial dispute which was referred by the appropriate Government for adjudication to the Labour Court. The Labour Court vide impugned award dated 07.10.2005 has directed their reinstatement along with costs of Rs. 10,000/- or in the alternative an award of compensation of Rs. 60,000/- in lieu of reinstatement along with costs of Rs. 10,000/-. The respondent paid compensation of Rs. 60,000/- along with costs of Rs. 10,000/- awarded by the impugned award to both the workmen who are petitioners herein and this fact is admitted by Mr. Anuj Aggarwal, learned Counsel appearing on behalf of the petitioners.

2 Mr. Anuj Aggarwal, learned Counsel appearing on behalf of the petitioners contends that compensation of Rs. 60,000/- awarded by the Labour Court to each of the workmen in lieu of their right of reinstatement is quite inadequate and he submits that the said compensation should be enhanced by this Court in exercise of its writ jurisdiction. I do not find any merit in this argument advanced by the petitioner's learned Counsel.

3. The award which has been challenged in the present writ petition was passed by the Labour Court about four years back on 07.10.2005. There is no satisfactory explanation given for the delay of about four years in filing of the writ petition. Furthermore, since the petitioners had worked intermittently on ad-hoc basis for a period of about two years with the respondent, this does not confer any right on them for their reinstatement or for compensation. I am supported in my view from a recent judgment of the Hon'ble Supreme Court in State of Himachal Pradesh and Anr. v. Ravinder Singh Civil Appeal No. 2224 of 2008 (Arising out of SLP(C) No. 3347/2006) decided on 28.03.2008, wherein it was held as under:

Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. The High Courts acting under Article 226 of the Constitution, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because an employee had continued under cover of an order of the court, which we have described as "litigious employment" in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be

careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates.

4. Since the impugned award has not been challenged by the petitioners, I do not intend to interfere in the amount of compensation awarded by the Labour Court in favour of the petitioners. It was a case where the petitioners were not entitled to any relief as a consequence of non-extension of period of their ad-hoc appointment by the respondent. However, since the amount of compensation awarded by the Labour Court to the petitioners has been paid, this brings a finality to the matter. The petitioners cannot be permitted to reagitate the quantum of compensation awarded to them by the Labour Court after they have already received this amount long back by filing the present writ petition filed after about four years of the impugned award.

5. For the foregoing reasons, I do not find any merit in this writ petition which fails and is hereby dismissed in limine.