

(2021) 03 CAT CK 0173

In the Central Administrative Tribunal

Case No : Original Application No. 679 Of 2021, Miscellaneous Application No. 891, 892 Of 2021

Suyash Sankhwar & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 26-03-2021

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution Of India, 1949 — Article 309

Citation : (2021) 03 CAT CK 0173

Hon'ble Judges : R.N. Singh, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : C.M. Jha, R.K. Jain

Final Decision : Dismissed

Judgement

R.N. Singh, Member (J)

1. The applicants have filed the present Original Application under Section 19 of the A.T. Act, 1985, praying therein for the following reliefs:-

1. To quash/stay the termination order MHA Order No.25022/44/2010-Imm(Pt) dt. 18.06.2020 issued by the respondent on 17.02.2021, 18.02.2021 and 19.02.2021.

2. To regularize the service of the applicants and provide the equal opportunities as provided to the similarly selected candidates through the same advertisement.

3. Not to disturb the service of the applicants as it is the only source of income for the survival of the applicants and their family.

4. To provide job security to the petitioner during this recession and corona virus time as our Prime Minister addressed to the nation.

5. To consider the claim of the applicants.

6. Pass any other or further order which this Hon'ble Tribunal may sympathetically deem fit and proper in the interest of justice."

2. Learned counsel for the applicants submits that pursuant to the notice/advertisement of 2014, the applicants got appointment letter(s) as Immigration Assistant on contract basis. The applicants accepted the offer made to them, accepted the condition(s) as therein and joined the posts. It is, further, contended that the applicants have performed the duties as being done by regularly appointed employees of the respondents on such posts. Shri Jha, learned counsel for the applicants also adds that due to Covid period, the applicants have rather performed more and better than the regularly appointed persons as such post. The said contractual appointments of the applicants were being extended periodically. It is also an admitted case of the applicants that though the applicants participated in the selection process initiated by the respondents vide their advertisement/notification of 2014, however, the applicants could not succeed in the said selection process. However, keeping in view, their need, the respondents have appointed the employees on contract basis and the terms & conditions of employment were very much reflected in the offer of appointment and such offer of appointments were duly accepted by the applicants. Now, the grievances of the applicants are that the applicants' services have not been regularized and the applicants have been terminated vide impugned orders in view of the facts that the regularly selected persons have become available to join.

3. It is an admitted case of the applicants that the applicants' services have been replaced by regularly selected persons.

4. We have heard the learned counsels for the parties.

5. It is an admitted case of the applicants that though the applicants have participated in the selection process initiated by the respondents vide notice/advertisement, 2014, however, they had not been successful in the said selection process but they were offered the contractual appointment. Certain conditions of service were reflected therein in the offer of appointment and such conditions were accepted by the applicants. Accordingly, we do not find any reason to hold that the applicants were regularly appointed by the respondents through the selection process initiated in the year 2014. Further, so far the claim of the applicants for regularization is concerned, we are of the considered view that once the post is required to be filled up in accordance with the rules, framed under Article 309 of the Constitution and admittedly such posts have been filled up by the respondents in accordance with such Recruitment Rules, merely for the reasons that the applicants have been appointed and they have served as contractual employees for around two years, the same will not be sufficient to hold that applicants are required to be considered for regularisation against such posts.

6. For the forgoing reasons, we are of the considered view that the OA lacks

merit and accordingly, the same is dismissed. However, in the facts and circumstances, no order as to costs.

7. Pending MAs also stand disposed of, accordingly.