

(2004) 05 DEL CK 0009

In the Delhi High Court

Case No : Writ Petition (C) No's. 7326 of 2004 and 6190, 8114-8121, 8843-55 and 9874 of 2003

Umesh Singh

APPELLANT

Vs

Chancellor/Lt. Governor and Others

RESPONDENT

Date of Decision : 18-05-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 113 DLT 685

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : S.C. Sagar, Surat Singh and G.M. Khan, Karishma Arora, for Sanjay Jain, for the Appellant; Sandeep Sethi and Lla Kapoor, for the Respondent

Judgement

Pradeep Nandrajog, J.—The above captioned batch of writ petitions pertain to a dispute raised by Attendants engaged by Indira Gandhi National Open University on daily wage basis. Petitioners in the captioned petitions state that they have been employed on daily wage basis from the year 1996 and onwards. It may be clarified that some petitioners claim to have been appointed on daily wage basis in the year 1996. Some claim appointment with effect from 1997 and so on till the year 2002. Relying upon certain office notes, petitioners allege that the Administrative Wing of IGNOU commenced a proposal which would reveal that more hands are required than the sanctioned posts in the cadre. Proposals were to the effect that services of daily wage persons be regularised. Petitioners allege that since work is being performed by them for a number of years, mandamus be issued to IGNOU to absorb the petitioners as regular employees.

2. As per the stand taken by the University it is engaged in imparting distant education. Apart from normal day to day work, which is performed by the University, it needs extra hands at specified intervals of the year. As per the University, extra hands are required intermittently. It has been explained in the counter that extra hands are required at admission time and when study material

has to be dispatched, as also during examination time. During these 3 periods, large volume of work relating to packaging, forwarding and dispatch of material has to be performed. It has been stated in the counter affidavit that the University has 48 regional centres and 1,000 study centres. 84 programmes of study are being offered to over 10 lakhs students. The University denies in the counter affidavit that perennial job requirement exists.

3. Writ petitions are also opposed on the ground that highly disputed questions of fact arise for consideration and this Court cannot direct the University to create regular posts. Counsel for the petitioner submits that there are regular vacancies and petitioners can be adjusted against the same. Counsel for the respondent denies the aforesaid fact.

4. Petitioners rely upon some documents which would reveal that qua 15 persons, there would be material to show that these 15 persons have worked round the year from the year 1999 till the year 2002. Qua the others, no such material is placed on record. Counsel appearing for the petitioner in WP (C) No. 6190/2003 has handed over to this Court photo-copies of found to the problem.

7. Considering the nature of operations of the respondent/University/Counsels agree as follows:

(a) IGNOU shall prepare a seniority list of all daily wage attendants employed by it;

(b) principle of seniority would be continuous employment each year. It means that if a person has worked in the year 1997 but has not worked in the year 1998 and has worked in the years 1999, 2000, 2001, 2002 and 2003, would be assigned seniority as on 1999;

(c) a person who has worked in a particular year but for a lesser number of days vis-a-vis his counter part would be assigned seniority in the year in which the 2 have worked. Their inter se seniority would be based on the date of birth. It is clarified that all those who have worked each year with effect from a particular year would be assigned inter se seniority on the basis of their date of birth.

(d) respondent/University would effect appointment on daily wage basis as and when extra hands are required strictly out of the panel prepared aforesaid in order of seniority;

(e) requirement of extra hands would be notified by putting up a notice on the notice board of the University giving option to the employees to offer their services on daily wage basis at least 7 days prior from the date when daily wage employment has to be effected;

(f) regular vacancies or additional posts of attendants, if created, would be filled as per the notified recruitment rules subject to the condition that the persons whose names are entered in the seniority list would be entitled to apply irrespective of the fact whether they are registered with the Employment

Exchange. They would be granted the benefit of age relaxation. While effecting appointment due regards would be given to the service rendered by these persons. It is clarified that other eligibility norms as per the recruitment regulations save and except the norm of age would continue to apply.

8. The respondents would prepare the seniority list keeping in view the directions aforesaid within a period of 8 weeks from today. If any person has a grievance against the seniority list, his objections would be considered and decided by the University.

9. The seniority list prepared shall be put up on the notice board of the University. Appointment, if any, effected by the University to the post of Attendant on daily wage basis directly under it, would be strictly in conformity from out of the seniority list prepared aforesaid.

10. Statement of Mr. Sandeep Sethi that lest a charge is laid against him or the University of not bringing the latest current position to the notice of this Court, it is noted that there is a proposal being considered by the University for outsourcing the work rendered by Assistants to private parties pertaining to additional intermittent work required by the University.

11. Petitions disposed of as above. No costs.