
(2006) 01 DEL CK 0181

In the Delhi High Court

Case No : LPA No. 653-93 of 2005 and LPA 1191 of 2004 and WP (C) 18570-72 of 2004

Vandana Singh and Another

APPELLANT

Vs

NDMC

RESPONDENT

Date of Decision : 06-01-2006

Acts Referred:

Citation : (2006) 131 DLT 102

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Kuldeep Kumar, for the Appellant; Anjana Gosain and Jyoti Singh, for the Respondent

Final Decision : Dismissed

Judgement

Markandeya Katju, C.J.—This Appeal has been filed against the Order of the learned Single Judge dated 11.02.2005 by which he has dismissed the Writ Petition.

2. Heard counsel for the parties and perused the record.

3. The facts of the case have been set out in detail in the judgment of the learned Single Judge and hence we are not repeating the same except where necessary.

4. The Appellants were admittedly engaged as teachers by the New Delhi Municipal Council (NDMC) on contractual tenures and it had been clarified that the said engagement would not confer any right on them to claim regular appointment. On each occasion when the contract was renewed it had also been clarified that the extension would continue for the tenure, or till the posts are filled-up on regular basis, whichever is earlier.

5. By means of the writ petition, the petitioners/ appellants prayed that they should be regularized. The writ petition has been dismissed and hence the

present appeal.

6. A Division Bench of this Court in *Ravinder Kumar v The Director, AIIMS & Anr.* LPA 2566/2005, decided on 07.12.2005 has considered the question whether the Court can direct regularization of temporary employees. After detailed discussion of the relevant Supreme Court rulings the Bench has held that no such direction can be given by the Court as that would encroach into the executive domain, which is not ordinarily permissible. It is not necessary to repeat the Supreme Court rulings mentioned in *Ravinder Kumar v. The Director, AIIMS and Anr.* (supra). In that case it has also been held that the principle of "equal pay for equal work" has been considerably watered down in recent decisions of the Supreme court. These decisions have also been referred to in *Ravinder Kumar's* case and hence we are not repeating the same.

7. The petitioners had been appointed on ad hoc basis. Hence, they have no right to the post vide *State of Uttar Pradesh and Another Vs. Kaushal Kishore Shukla*, .

8. In the impugned judgment the learned Single Judge has referred to a large number of Supreme Court rulings which have disapproved of directions given by Courts for regularization, as this amounts to back door entry in violation of the rules (apart from encroaching into the executive domain). Judges must maintain judicial self restraint and avoid encroaching into the executive or legislative domain vide *Visa Steel Ltd. vs. Union of India*, WP (C) 20185 of 2005 decided by this Court on 8th December 2005, *Rama Muthuramalingam, State Propaganda Committee Member Vs. The Deputy Superintendent of Police and Others*, etc.

9. The NDMC has initiated steps to fill up the vacancies on regular basis through the Delhi Subordinate Services Selection Board, but the NDMC has given certain assurances to the petitioners as recorded in para 2 of the impugned judgment. We agree with the learned Single Judge that nothing more could legally be done.

10. In *Ravinder Kumar v. The Director, AIIMS and Anr*, case (supra) we have also observed that merely because in some cases, the Supreme Court has directed regularization of certain employees that will not amount to a precedent, as a mere direction without laying down any principle of law is no precedent. For this proposition also, the relevant rulings of the Supreme Court have been referred to in the decision in *Ravinder Kumar's* case, which may be seen.

11. Following the said decision in *Ravinder Kumar v. The Director, AIIMS and Anr.*, these appeals and the writ petitions are dismissed.