

Sunil Kumar Aledia vs Govt. Of Nct Of Delhi & Ors on 20 May, 2020

Author: Vipin Sanghi

Bench: Vipin Sanghi, Rajnish Bhatnagar

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2991/2020

SUNIL KUMAR ALEDIA

..... Petitioner

Through: Mr. Sudhir Nandrajog, Sr. Adv. With
Mr. Shiven Verma, Adv and Mr.
Rohan Poddar, Adv.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondent

Through: Mr. Sanjoy Ghose with Ms. Urvi
Mohan, Advs. For GNCTD.
Mr. Kirtiman Singh, CGSC with Mr.
Rohan Anand, Adv.
Ms. Shyel Trehan and Mr. Chirayu
Jain, Advs for the intervenor/
applicant in C.M. No. 11132/2020
Mr. Parvinder Chauhan

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HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% 20.05.2020 Exemption allowed, subject to all just exceptions. The application stands disposed of.

Exemption allowed, subject to all just exceptions. The Court Fees be filed within two weeks.

The application stands disposed of.

Issue notice. Mr. Shiven Verma accepts notice on behalf of the petitioner. He does not oppose the application being allowed. Accordingly, the same is allowed. The intervenor is allowed to intervene in these proceedings.

W.P.(C) 2991/2020 The petitioner has preferred the present petition to seek the following reliefs:

"(A) Pass an order directing the respondent and concerned authorities provide relief to workers and/or labourers and all mandated benefits be provided to them (including DTB transfers), including those who were previously registered in the last two years but could not/have not renewed their membership under THE BUILDING

AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996; (B) Pass an order directing the respondents and concerned authorities to ensure that all workers falling under the scope of the Act who are currently hosted at DUSIB shelter homes and emergency Shelter homes, Labour camps and construction sites are promptly registered under the THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996 and all mandated benefits be provided to them(including DTB transfers);

(C) Pass an order directing the respondents and concerned authorities to ensure that all construction companies and employers ensure compliance of the THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996 and associated Rules, and accordingly get all workers and/or labourers working on their projects promptly registered and all mandated benefits be provided to them (including DTB transfers);

(D) Pass an order directing the respondents and concerned authorities to ensure that all the construction workers whose names have been filed by construction companies and/or employers with the Labour Department are promptly registered as beneficiaries under THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996, and that all mandated benefits be provided to them (including DTB transfers);

(E) Pass an order directing the DSLSA to set up programs and camps to ensure that all eligible construction workers and/or labourers employed in the state of Delhi are registered as beneficiaries under THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996, and that all mandated benefits are provided to them (including DTB transfers);;

(F) Pass an order directing the respondent and concerned authorities to ensure that all construction workers and/or labourers that are employed (not just before the lockdown, but also during and after lockdown) on infrastructure and other projects under government and private companies are promptly registered as beneficiaries under THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996 and that all mandated benefits are provided to them(including DTB transfers); 9717394810 uppal 9717394839 tripathi 9717394830 manoj verma 9717394805sunil kaushal (G) Pass an order directing the respondent and concerned authorities to ensure payment of wages to workers for the lockdown period at all government projects as advised/directed by the Central Government;

(H) Pass any such directions or order which would ensure that the registration process for workers is made easy, practical and accessible for the average worker

and/or labourer who is poor, illiterate and uninformed of his rights;

(I) Pass any such directions or order to ensure the object and purpose of the BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT 1996 and THE BUILDING AND OTHER CONSTRUCTION WORKERS' WELFARE CESS ACT 1996 is achieved and there is proper implementation of the statutory provisions and rules made thereunder;"

The Delhi Building & other Construction Workers Welfare Board i.e. respondent No.3 has filed a status report on record. The same has been discussed during the hearing.

Mr. Nandrajog, learned senior counsel points out that as per the status report, a sum of Rs. 5,000/- was initially transferred through Direct Benefit Transfer (DBT) to 32,358 live registered construction workers as on 24.03.2020 through DBT. The report also discloses that another set of 7,242 applicants, whose applications were pending registration, were found eligible. Thereafter, a second proposal for granting Rs5,000/- to each of the said 7,242 construction workers was moved, and they were also granted ex gratia relief through DBT on 09.04.2020. In this process, a total of 19.08 crores has been transferred as relief to 39,600 live registered construction workers. Mr. Ghose states that on 12.05.2020, all the registered 39,600 construction workers have been disbursed a further amount of Rs.5,000/-.

The submission of Mr. Nandrajog is that in Delhi, as per Annexure A to the rejoinder, as on 30.09.2018, there were 5,39,421 registered construction workers. He submits that, evidently, most of them did not renew their registration and, consequently, they have been denied the credit of ex gratia payment of the aforesaid amounts.

It, thus, appears that only a fraction of the originally registered construction workers have been able to avail of the ex gratia relief granted by the respondents, due to them not having renewed their registration. This is not a satisfactory state of affairs, and the respondents are obliged to take effective steps to encourage the construction workers - who are otherwise eligible, to renew their registration, so that the intended benefit can reach them as well.

Our attention has also been drawn to the form for registration, which the construction workers have to fill up at the time of initial registration. The same contains all the relevant particulars and details, and also requires the registrants/ applicants to provide their mobile number.

We are of the view that in view of the prevailing lockdown and, since the print media is practicably out of action, it is essential that all the earlier registered construction workers, which were 5,39,421 as on 30.09.2018 (and others too may have registered thereafter) minus those whose registrations are now live, should be sent out appropriate communication through SMS on their registered mobile numbers - informing them of the decision of the Government to make ex gratia direct transfers to their registered accounts, and they should also be informed of the manner in which they could renew their registration. Whatever certifications are required of them under Section 14 of the The

Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996, should also be communicated to the workers. They should also be informed of the renewal fee that they would need to deposit, and the manner in which the said deposit/ transfer could be made by them, including through electronic mode.

We have suggested to Mr. Nandrajog and Ms. Trehan to co-ordinate with Mr. Ghose in the formulation of the message to be sent through SMS, which is comprehensive in the aforesaid regard. They have graciously agreed to do the needful. The said exercise shall be completed during the course of the day. Once the message is composed, we direct the respondent Board to communicate the same to all those construction workers, whose registration may have lapsed, through the automated SMS mode, preferably in Hindi language. This exercise should be completed within the next four working days.

Ms. Trehan has submitted that even those registrants whose registration may have lapsed, and who renew their registration, should be allowed the benefit of the ex gratia payments which have been disbursed in three instalments, since March 2020.

She has drawn our attention to the Status report filed by the Board, which contains the order dated 30.03.2020 issued by the Office of the Secretary Cum Labour Commissioner, which states that financial assistance be granted to " to all registered construction workers (live registration) i.e. 37,127 as on 24.03.2020 through Direct Benefit Transfers to mitigate the hardships arising due to COVID-19 Pandemic." Similarly, she has drawn our attention to order dated 09.04.2020 issued by the same authority which also directs disbursement of five thousand rupees as financial assistance/ ex gratia to 7242 registered construction workers "as on 03.04.2020 through Direct Benefit Transfers to mitigate the hardships arising due to COVID-19 Pandemic "

Considering the fact that due to the lockdown, construction workers lost their employment and daily source of income, ex gratia payments are being disbursed to the registered construction workers under the aforesaid Act to mitigate their hardship during the COVID-19 Pandemic. Construction workers whose registration may have lapsed, and are subsequently renewed, would be in the same position as those whose registrations were valid, and to whom the said ex gratia payments have been disbursed since March, 2020. We are, therefore, of the view that the Board should disburse the ex gratia amounts, as disbursed since March, 2020 even to those registrants, whose registration may have lapsed, but are subsequently renewed by the Board after due verification.

Mr. Ghose has submitted that for the purpose of verification, communications have been addressed to about 7,000/- employers, out of whom only 242 have responded. The Board should send reminders to those employers who have not responded, informing them that their continued default would be on the pain of penalty/ prosecution, as provided by the law. The employers to whom reminders are issued to seek information from them, should co-operate and provide the requisite information that they are obliged to provide to the Board. The employers should be made aware of

this direction of ours.

Ms. Trehan submits that the process of online renewal of registration of construction workers is in English, and is a cumbersome procedure.

The fact that the website of the Board is in English language is certainly a matter of concern, considering the strata of the society from which the construction workforce comes. We are hopeful that the Board would make its website bilingual, so that the applicants are able to receive and provide the information in Hindi language as well.

We direct the Delhi State Legal Services Authority to interact with the respondent Board, so as to ensure that our aforesaid directions are carried out without any delay, including in relation to the verification of the renewal applications that the Board may receive. A copy of this order be communicated to the Secretary, Delhi State Legal Services Authority for information and necessary action.

The matter is part heard. List on 05.06.2020.

VIPIN SANGHI, J RAJNISH BHATNAGAR, J MAY 20, 2020 N.Khanna