

Akash Verma And Ors vs Govt Of Nct Of Delhi And Anr on 30 October, 2023

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 14020/2023

AKASH VERMA AND ORS

Through: Mr. Sanjay Gosh, Sr.

Meghna De, Ms. L. G

Rohan Mandal, Advoc

versus

GOVT OF NCT OF DELHI AND ANR

Through: Mrs. Avnish Ah

Counsel, GNCTD alon

Laavanya Kushik, Ms

Mr. Mohnish Sehrawa

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% 30.10.2023 CM APPL. 55413/2023 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. Application is disposed of accordingly.

W.P.(C) 14020/2023 & CM APPL. 55412/2023(Stay)

1. The present writ petition has been instituted on behalf of 26 petitioners who were part of the Civil Defence Volunteers Service and had been assigned to various departments under the Government of NCT of Delhi, respondent No.1 herein, since 2015. Their assignments were initially for 89 days, thereafter extended from time to time, even during the COVID-19 pandemic, and have continued till 31st March, 2023.

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2. Mr. Sanjoy Ghose, learned Senior Counsel, appearing on behalf of the petitioners herein, submits that the petitioners (Civil Defence Volunteers) have since been allocated various responsibilities, particularly with respect to disaster management initially and thereafter, for various other responsibilities including as attendants performing tasks of Data Entry Operators and other clerical work. Apprehension arose on account of news reports citing the statements of the Hon'ble Chief Minister of Delhi that there is a proposal to remove such Civil Defence Volunteers which were engaged in various routine duties of the departments of Government of NCT of Delhi.

3. Learned Senior Counsel has contended that there is a decision afoot to end their services tomorrow, i.e., 31st October, 2023. In the meantime, however, they have approached the Regional Labour Commissioner (Central) and filed a statement of claim seeking reference of disputes for determination principally on the basis of equal pay for equal work and regularisation with retrospective effect from the initial date of joining. Pursuant to such statement of claim being filed on 27th July, 2023, notice has been issued by the Conciliation Officer on 06th October, 2023 in respect of the said industrial dispute where it has been stated as under:

"...The Management is advised to adhere to the provision of Section 33 of the Industrial Dispute Act, 1947 with regard to service conditions of workman involved in this dispute."

4. On this account, learned Senior Counsel for the petitioners contends that This is a digitally signed order.

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5. Mrs. Avnish Ahlawat, learned Standing Counsel appearing on behalf of the Government of NCT of Delhi has, however, refuted these conditions on the basis that the present petitioners can neither be considered to be regularised nor industrial workers. She places reliance on *Grah Rakshak, Home Guards Welfare Association v. State of Himachal Pradesh and Others* (2015) 6 SCC

6. Mrs. Ahlawat further states that the present petitioners were merely co-opted as Civil Defence Volunteers, especially for Disaster Management Services, and can neither be slotted as temporary nor permanent employees. She further places an objection to the jurisdiction of the Central Labour Commissioner before whom such statement of claim has been filed.

7. Learned Senior Counsel for the petitioner, however, has drawn our attention to the decisions of Hon'ble Division Benches of this Court in LPA 666/2023 titled as *Municipal Corporation of Delhi v. Mohit Kumar and Others*; LPA 353/2021 titled as *Delhi Parshashan Vikas Vibhag Industrial Employees Union v. Chief Electoral Officer & Anr*, as well as the decision of the Hon'ble Supreme Court in *The Bhavnagar Municipality v Alibhai Karimbhai and Others*, (1977) 2 SCC 350 to contend that whatever may be the nature of proceedings before the Conciliation Officer, Labour Court or Tribunal, the statute clearly provides for a provision for maintenance of status This is a digitally signed order.

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8. Issue notice.

9. Mrs. Avnish Ahlawat, Standing Counsel, GNCTD, appearing on behalf of the respondent No.1, accepts notice, prays for and is granted four weeks' time to file reply with an advance copy to the learned counsel for the petitioners.

10. Considering these facts and circumstances, and the letter and spirit of Section 33 of the ID Act, at this stage, it would be apposite that the following directions be passed in the interim:

i. The Conciliation Officer/respondent No.2 will endeavour to dispose of the matter at the earliest, preferably within a period of one month from today, with the cooperation of all the parties. ii. In the meantime, till the decision of Conciliation Officer no precipitative action shall be taken with regard to the existing engagement of the petitioners.

iii. As regards the contentions raised by the Government of NCT of Delhi in respect of the jurisdiction and maintainability, the same may be considered by the Conciliation Officer, if so pressed by the Government.

11. Needless to state, these are only interim directions, and this Court is not expressing its opinion on the merits of the matter in any manner whatsoever.

12. List on 06th December, 2023.

13. Copy of the order be uploaded on the website of this Court.

ANISH DAYAL, J OCTOBER 30, 2023/RK/SC This is a digitally signed order.

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