

Ritesh Tanwar & Ors vs Delhi Cantonment Board Through Its Ceo & ... on 15 November, 2021

Author: V. Kameswar Rao

Bench: V. Kameswar Rao

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 12833/2021 & CM APPL. 40424/2021, 40425/2021

RITESH TANWAR & ORS.

Through: Mr. Sanjay Mishra and
Mishra, Advocates

versus

DELHI CANTONMENT BOARD

THROUGH ITS CEO & ORS. Resp

Through: Mrs. Avnish Ahlawat, Advocate
Mrs. Tania Ahlawat, Mr Nite
Kumar Singh and Ms Palak
Rohmetra, Advocates for Res
Mr. Anurag Ahluwalia, CGSC
R-3 & R-4.
Mr. Naresh Kaushik, Adv. fo

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 15.11.2021 Allowed, subject to just exceptions.

W.P.(C) 12833/2021 & CM APPL. 40424/2021

1. This petition has been filed by the petitioners with the following prayers: -

"(a) Pass any appropriate writ, order or direction including a writ of mandamus and prohibition the of quo warranto or any other writ I orders I directions against the respondent for illegal appointment of sh. Alkesh sharma and further restraining him from holding any public post, and also restrain respondent no from taking decision upon the said notices in any manner by the NDMC Building Department.

(b) Quash the notifications for the appointment of the which is illegal and contrary to the law are ultra-virus and un- constitutional to the Constitution of India.

(c) Quash and set aside the tenders caused by frauds and direct the vigilance enquiry in the same."

2. Apparently, the prayers (a) and (b) are with regard to the appointment of the respondent No.2 as an Assistant Engineer in respondent No.1 organisation. The prayer (c) is not related to the appointment of the respondent No.2 in the respondent No.1 organisation.

3. Mrs. Avnish Ahlawat, Advocate, appears for respondent No.1, Mr. Naresh Kaushik, Advocate, appears for respondent No.2 and Mr. Anurag Ahluwalia, CGSC, appears for respondent Nos.3 and 4.

4. It is conceded case of the counsel for the petitioner that neither the petitioner No.1 nor the petitioner No.2 are employees of the respondent No.1 organisation. Rather they are private persons. The petitioner No.3 is an association of contractors based in the Delhi Cantonment area. The grievance of the petitioners in this petition appears to be the appointment of the respondent No.3 as Assistant Engineer in the respondent No.1 organisation in the year 1996.

5. Though, many pleas have been advanced by the counsel for the petitioner, one of the pleas is that the appointment is not accordance with the rules. This stand is contested by Mrs. Ahlawat, Mr. Kaushik as well as Mr. Ahluwalia.

6. Suffice to state that that the petitioner challenges the appointment of the petitioner which happened in the year 1996 i.e. 25 years back.

Apparently such a challenge, without going into the locus of the petitioners, is hit by delay and laches and is also a stale claim. The plea of the learned counsel for the petitioners is that the petitioners have come to know about the appointment only in the year 2016-17 which resulted in a representation made in the year 2017. Merely because the petitioners have come to know about the appointment in 2016-17 and made representation in the year 2017 would not revive the cause of action if any for the petitioners to challenge the appointment made in 1996.

7. Suffice to state, the prayers (a) and (b) cannot be granted. The petition qua them is rejected. In so far as prayer (c) is concerned, as this prayer does not relate to the appointment of respondent No.2 and as such not a service matter, I say nothing.

8. The petitioners are at liberty to seek remedy as available in law with regard to prayer (c).

9. The petition is dismissed.

V. KAMESWAR RAO, J.

NOVEMBER 15, 2021/ds