

# Delhi Golf Club Employees Union vs Union Of India on 24 February, 2022

**Author: Vipin Sanghi**

**Bench: Vipin Sanghi, Jasmeet Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

LPA 239/2021 and C.M. Nos.25446-25449/2021 & 9922/2022

DELHI GOLF CLUB EMPLOYEES UNION

Through: Mr. Inderbir Singh Alag  
Advocate with Mr. Simra  
& Ms. Rhea Dube, Advocates

versus

UNION OF INDIA

Through: Mr. Vikrant N. Goyal, Advocate  
respondent No.1.  
Mr. Gaurav M. Liberhan,  
for respondent No.6/ De

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% 24.02.2022

1. The submission of Mr. Alag, learned counsel for the appellant is that while passing the impugned judgment, the learned Single Judge has not completely dealt with the petitioners' submission advanced in W.P.(C.) No.5440/2020. The learned Single Judge has - in paragraph 5 of the impugned judgment, recorded in relation to the W.P.(C.) No.5440/2020 as follows:

"5. Multiple directions are sought in the petition against Union of India, Special/Additional/Joint Labour Commissioners, Delhi Advisory Contract Labour Board and other concerned Departments including DGC to prohibit deployment of contract labour by DGC and to forward the application of the Petitioners under Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970 to the State Advisory Contract Labour Board for prohibition of deployment of contract labour in the Food and Beverages Department of DGC under Section 4 of the said Act. Directions are also sought to Respondent Nos. 7 and 8 to initiate action against the concerned Labour Commissioners for contravening their statutory duties and a direction to Respondent No.4 not to grant Principal Employer Registration

Certificate to the Management of DGC and to cancel the same, if already granted. The prayers in the writ petition are as follows :-

"1. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.1 to 4 to get prohibited the deployment of the Contract Labour by forwarding the application of the Petitioner Under Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970 along with AGENDA NOTE to the Respondent No.6 i.e. the State Advisory Contract Labour Board for prohibition of deployment of contract labour/contractor in the Food & Beverages Department of the Delhi Golf Club under Section 4 of the Contract Labour (Regulation & Abolition) Act, 1970.

2. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.6 to take note of the Agenda for prohibition of deployment of contract labour/contract in the Food & Beverages Department of the Delhi Golf Club and NOTIFY the same in the OFFICIAL GAZZETTE prohibiting the deployment of the contract labour/contractor in the Food & Beverages Department of the Delhi Golf Club.

3. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.7 & 8 to take action against the Respondent No.1, 2, 3 & 4 for their illegal acts of contravening the statutory duty obligations cast upon them by virtue of various provisions of the Labour Welfare Legislation i.e. the Industrial Disputes Act, 1947; the Contract Labour (Regulation & Abolition) Act, 1970; the Factories Act, 1948 enacted by the Parliament of this Country for protection of the downtrodden/vulnerable labour class.

4. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.4 not to grant the principle employer registration certificate to the Respondent Management of the herein with regard to the Food & Beverages Department of the Delhi Golf Club.

5. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.4 to revoke/cancel the registration of principle employer if already granted to the Respondent No.11, 12 & 13 i.e. the Management of the Delhi Golf Club with regard to the Food & Beverages Department of the Delhi Golf Club under Section 7 or any other section of the Contract Labour (Regulation & Abolition) Act, 1970.

6. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.1 to 4 to revoke/cancel the Principle Employer Registration Certificate for House Keeping & Security Services having permanent & perennial nature of services obtained through

misrepresentation in the year 2006 in view of the admitted fact that the management of the Delhi Golf Club has already surrendered the said Registration Certificate online on 3/7/2020 & 30/7/2020 itself.

7. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.9 i.e. Food Safety & Standards Authority of India (FSSI) to ensure that the requisite Food Safety License for maintaining food standards and safety in the kitchen of the Food & Beverages Department of the Delhi Golf Club are procured as required under Food Safety & Standards Act, 2006.

8. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.10 to take action against Respondent No.11, 12, 13, 14 & 15 for contravening various provisions of the Factories act more particularly for not obtaining requisite food processing license for Kitchen of the Food & Beverages Department of the Delhi Golf Club.

9. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.10 to ensure that the requisite License for food processing in the kitchen of the Food & Beverages Department of the Delhi Golf Club as required/mandatory under Section 2 (m) of the Factories Act, 1948.

10. Writ, order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction thereby directing the Respondent No.1 to 4 to implement the Order dated 7/8/2020 passed by the Labour Officer, New Delhi District, in its letter & spirit.

11. Any other Writ, Order or direction in the nature of MANDAMUS or any other appropriate writ, order or direction the Hon.,ble Court may deem fit and proper may also be granted in the facts and circumstances of the present case and in the interest of Justice.""

2. Mr. Alag submits that the case of the appellant in the said writ petition was that on 07.08.2020, the Conciliation Officer had passed an 'order' to the effect that retrenchment of 66 workmen was undertaken without compliance of Section 25N(7) and that the appellant workmen are deemed to be in the employment of the respondent/ Delhi Golf Club in the absence of permission from the Appropriate Government. Mr. Alag submits that it was in this light that W.P.(C.) No.5440/2020 was filed to seek the reliefs, as set out in the aforesaid extract.

3. The said position taken by the appellant was seriously contested by the respondents, who claimed that the file noting dated 07.08.2020 made by the Conciliation Officer was not an 'order' and the Conciliation Officer had no authority, or jurisdiction to pass any order. Several other pleas were also raised by the respondent. The Labour Department had also filed an affidavit stating that the

proceedings dated 07.08.2020 undertaken by the Conciliation Officer was not an 'order'. It was contended by the respondent that the said writ petition itself was not maintainable.

4. A perusal of the impugned judgment shows that the aforesaid aspect has not received consideration of the learned Single Judge. We, therefore, leave it open to the appellant to move an application to seek review/ clarification from the learned Single Judge on the aforesaid aspects. While doing so, we make it clear that we have not expressed any opinion one way, or other, either on the merits and the submissions advanced by either side.

5. The appeal stands disposed of in the aforesaid terms.

VIPIN SANGHI, J JASMEET SINGH, J FEBRUARY 24, 2022 B.S. Rohella