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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10012/2024 & CM APPLs. 40972-40973/2024**

ASIA KHATOON AND ORS

.....Petitioners

Through: **Mr. Sai Vinod and Mr. Sahil Ghai,**
Advocates.

versus

DELHI COMMISSION FOR WOMEN AND ORSRespondents

Through: **Mr. Rajshekhar Rao, Senior Advocate**
with **Ms. Zehra Khan, Ms. Meherunissa Anand Jaitley, Mr. Arsh Rampal and Ms. Anaunta Shankar,**
Advocates for R-1.
Mrs. Avnish Ahlawat, Standing Counsel with **Mr. Nitesh Kumar, Ms. Laavanya Kaushik, Ms. Aliza Alam**
and **Mr. Mohnish Sehrawat,**
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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25.07.2024

1. The Petitioners, 49 in number, are contractual staff members engaged by Respondent No. 1 – Delhi Commission for Women,¹ for varied roles. Their initial engagement period of three months has been periodically extended. Their grievance in the present petition pertains to order dated 29th April, 2024 issued by Respondent No. 2, Department of Women and Child Development, Government of NCT of Delhi, terminating the services of all

¹ “DCW”



contractual staff employed with DCW, with immediate effect.²

2. A perusal of the impugned order indicates that this action of Respondent No. 2 has been by impelled by extensive financial and administrative irregularities in the functioning of the DCW. According to Respondent No. 2, DCW undertook additional financial liabilities by employing officers/ staff members and initiating infrastructural projects in excess of the sanctioned strength and allocated grants. The order highlights various instances of violations by DCW beyond their statutory obligations, that mandate them to obtain prior approval of the competent authorities before any expansion in staff/ infrastructure. As regards contractual appointments, such as those of the Petitioners', Respondent No. 2 found that these engagements were made without any vacancy or sanctioned posts. In view of these irregularities, further supported by the findings given in the report of Principal Accountant General Audit, Government of India, the Hon'ble Lieutenant Governor, Government of NCT of Delhi constituted a Committee headed by the Chief Secretary, to examine the issue of illegal and unauthorised appointments and other irregularities within the DCW.³ The impugned order takes note of the Committee's report which identified 223 contractual engagements as illegitimate, and has accordingly, directed cessation of services of the contractual staff employed by DCW as a corrective measure to rectify the situation.

3. However, the Petitioners contend that termination of contractual staff is arbitrary and irrational. They argue that they have been instrumental in the functioning of DCW, especially in programmes and special cells constituted

² "impugned order"

³ "Committee."



for assistance of victims, such as Rape Crisis Cell, Crisis Intervention Cell, Anti-human Trafficking and Rehabilitation Cell etc. Despite their indispensable role and contributions, they have been terminated without reason, a decision that could severely disrupt DCW's operations. Reference is also made to orders passed by this Court in W.P.(C) 11712/2016, where directions to release salaries of the staff engaged/ outsourced by DCW have been issued. The Petitioners also rely on the minutes of meeting convened by the afore-mentioned Committee on 30th April, 2020 (dated 14th May, 2020), resolving as follows:

“The matter was discussed in detail and following decisions were taken:-

- 1. Since there are 160 persons working in DCW against 38 sanctioned posts, it would be appropriate to create $160-38 = 122$ new posts in DCW.*
- 2. Qualifications and remunerations for these posts will be as per the norms prescribed by the AR Department. The break-up of these 122 posts viz. regular/contractual/outsourced shall also be determined by GNCTD as per applicable norms.*
- 3. The existing 49 petitioners may be adjusted against the proposed newly created posts, subject to the fulfilment of the norms prescribed by the Govt. of NCT of Delhi.*
- 4. DCW will adhere to the Pattern of Financial Assistance as approved by FD, Govt. of NCT of Delhi.”*

[Emphasis Supplied]

4. The Petitioners emphasise that despite the above-noted findings of the Committee, Respondent No. 2 has proceeded to terminate the services of all contractual staff, without any cogent basis.

5. Issue notice. Ms. Zehra Khan and Mrs. Avnish Ahlawat, accept notice on behalf of Respondents No. 1 and 2, respectively. They seek and are granted four weeks' time to file their counter affidavits.

6. Mrs. Ahlawat argues that the engagement of Petitioners on a contractual basis by DCW lacked authorization by the competent authorities.



She emphasizes that, according to existing laws, DCW is prohibited from hiring staff members or offering salaries and appraisals without the requisite official approvals. Mrs. Ahlawat states that only 40 posts had been sanctioned for DCW, and consequently, any appointments in excess are deemed unauthorized and cannot be sustained legally. She also indicates that approximately eight Petitioners might be eligible for retention. However, she clarifies that a final decision regarding their employment will be subject to further deliberations and evaluations. Additionally, Mrs. Ahlawat assures that the ongoing programs and special cells within DCW shall continue to operate effectively, staffed by personnel other than those engaged on a contractual basis under dispute. Mrs. Ahlawat further submits that the personnel currently facilitating the operations of the DCW have either been appointed against officially approved positions, or are outsourced from third-party organizations, including NGOs. As regards the minutes of meeting of the Committee, she has presented a note/ corrigendum issued by Respondent No. 2 dated 31st July, 2020, whereby the Committee has decided not to pursue their decision to accommodate the Petitioners against the newly created posts.

7. The Court has carefully considered the submissions advanced by both parties. As regards the Petitioners' right to continue on the contractual positions, the Court does not find any *prima facie* case to grant them any interim relief. Respondent No. 2 has demonstrated that the Petitioners were employed without the requisite authorization and exceeded the approved staff capacity. Consequently, this lack of procedural compliance renders their continued employment legally untenable.

8. However, the Court acknowledges the broader implications of the



case, given the critical role of DCW in safeguarding and uplifting the interests of women in the state. The numerous programmes initiated by them have assisted several victims in distress, underscoring their crucial role. In this context, Mr. Rajshekhar Rao, Senior Counsel representing DCW, has raised an apprehension that the termination of contractual staff could adversely affect the DCW's operations, who are handling integral responsibilities, such as the Rape Crisis Cell, Crisis Intervention Cell, and the Anti-Human Trafficking and Rehabilitation Cell. Consequently, the Court's immediate priority is to ensure that the functioning of the organization, their programmes, and special cells is not hindered by a lack of workforce. On this aspect, although Mrs. Ahlawat has assured that none of the programmes run by DCW will be hampered and their functioning will continue, the Court would like to keep an oversight. She has submitted that the Commission currently has an adequate strength of personnel that would assist in its functioning, which the Court would like to scrutinize through the submission of a detailed staffing report.

9. In view of the above statement of Mrs. Ahlawat, the Court directs Respondent No. 2 to submit a comprehensive affidavit/ staff report, outlining the current staffing configurations and the specific roles played by both permanent and contractual personnel, within two weeks from today. The affidavit shall also detail the current framework and staff strength and structure of the DCW. It must also give a clear account of the measures taken to ensure that essential services, such as the Rape Crisis Cell, Crisis Intervention Cell, and Anti-Human Trafficking and Rehabilitation Cell, Acid Watch and Rehabilitation Cell, Sahyogini Cell, Mobile Helpline, remain fully operational and effective. Additionally, the affidavit must



provide a detailed analysis of how the officially sanctioned positions are being utilized and the extent to which third-party personnel, sourced from contractors, contribute to DCW's operations.

10. Re-notify on 21st October, 2024.

JULY 25, 2024
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SANJEEV NARULA, J