



\$~82

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

+ W.P.(C) 12117/2023 & 47651/2023

DELHI STATE CONTRACTUAL EMPLOYEES ASSOCIATION

..... Petitioner

Through: Mr. Saurabh Kirpal, Sr. Advocate
with Ms. Filza Moonis and Mr. Nikhil
Arora, Advocates

versus

GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Ms. Laavanya Kaushik, Advocate for
Mrs. Avnish Ahlawat, Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

15.09.2023

%

W.P.(C) 12117/2023 & CM APPL. 47651/2023

1. The present writ petition has been filed on behalf of the petitioners under Article 226 of the Constitution of India, praying as follows:

i) Issuance of a Writ in the nature of Mandamus or any appropriate Writ declaring the impugned circular/order dated 24.08.2023 passed by the Deputy Secretary of HR-PARAMEDICAL Branch in File No. F1 (1036) HR-PARA/H&FW/2023/2969-3009, the advertisement dated 31.07.2023 and O.M. Dated 11.10.2020 as erroneous, unjustified, discriminatory, and unsustainable in the eyes of law;

ii) Set aside the impugned decision/order dated 24.08.2023 passed by the Deputy Secretary of HR-PARAMEDICAL Branch



in File No. F1 (1036) HR-PARA/H&FW/2023/2969-3009 the advertisement dated 31.07.2023 and O.M. Dated 11.10.2020 as being erroneous, unjustified and unsustainable in the eyes of law;

iii) Pass any such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the present case."

2. Mr. Saurabh Kirpal, learned senior counsel appearing on behalf of the petitioners submitted that the members of the petitioner Association are existing contractual staff members appointed by undergoing due process and procedure of the appointment and have been working for more than 10 to 23 years in their respective posts without any order protecting them. It is submitted that despite fulfilling all requirements, the services of the contractual staff, members of the petitioner Association, have not been regularised yet.

3. It is submitted that on 31st July 2023, an advertisement has been issued by the respondents inviting applications for several categories in paramedics and subsequently, the respondents no. 1 and 2 issued a circular dated 24th August 2023, directing all the paramedical employees to apply against the vacancies published by way of the advertisement dated 31st July 2023 by using one-time age relaxation, failing which they shall lose the right for their services to be regularised. Therefore, the petitioner Association representing the contractual employees is now before this Court seeking setting aside of the circular/order dated 24th August 2023, the advertisement dated 31st July 2023 and the Office Memorandum subsequently issued on 11th October 2020 on *inter alia* the grounds that the same are erroneous, unjustified and



unsustainable in the eyes of law.

4. Heard.

5. Issue notice. Ms. Laavanya Kaushik, learned counsel appeared on advance notice and accepted notice on behalf of the respondents. She vehemently opposed the instant petition and prayed for four weeks' time to file the counter affidavit. Let the same be filed within four weeks, as prayed.

6. Rejoinder thereto, if any, be filed within two weeks thereafter.

7. List before the Registrar on 14th December, 2023 for completion of pleadings.

CM APPL. 47650/2023

8. The instant application has been filed on behalf of the petitioners seeking the following reliefs:

"a) Grant ad - interim ex parte stay of the impugned decision/order dated 24.08.2023 passed by the Deputy Secretary of HRPARAMEDICAL Branch in File No. F1(1036) HRPARA/H&FW/2023/2969-3009 as well as the advertisement dated 31.07.2023 and O.M. dated 11.10.2020"

9. The learned senior counsel for the petitioner stated that the impugned circular/order dated 24th August 2023 as well as the advertisement dated 31st July 2023 are in complete contravention of the principles of law settled by the judgment passed on 6th November 2013 in ***Sonia Gandhi & Ors. Vs. Govt. of NCT of Delhi & Ors., W.P.(C) 6798/2002*** and connected matters by the Division Bench of this Court.

10. It is further submitted that if the recruitment process initiated in pursuance of the advertisement dated 31st July 2023 not stayed, grave prejudice shall be caused to the members of the petitioner Association.

11. Heard. Issue Notice.



12. The learned counsel appearing for the respondents vehemently opposed the instant application and prayed for two weeks' time to file the reply. Let the same be filed within two weeks, as prayed.

13. List before the Registrar on 14th December, 2023 for completion of pleadings.

14. Since, upon hearing the parties as well as considering the facts and intervening circumstances, this Court is of the *prima facie* view that the matter requires consideration, an interim relief may be granted in favour of the petitioners so as to ensure that the reliefs sought are not rendered infructuous.

15. Accordingly, in the interregnum, the contractual staff of the petitioner Association is allowed to participate in the recruitment process, subject to outcome of the writ petition.

CHANDRA DHARI SINGH, J

SEPTEMBER 15, 2023

pa/ms

[Click here to check corrigendum, if any](#)