

Vipln Kumar and ors. Vs. Delhi Development Authority

Vipln Kumar and ors. Vs. Delhi Development Authority

SooperKanoon Citation : sooperkanoon.com/689076

Court : Delhi

Decided On : Feb-08-1991

Reported in : 44(1991)DLT23; 1991(1)DRJ(Suppl)433

Judge : B.N. Kirpal and; Santosh Duggal, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : Civil Writ Appeal Nos. 132 and 2535 of 1990

Appellant : Vipln Kumar and ors.

Respondent : Delhi Development Authority

Advocate for Pet/Ap. : P. Chakraborty,; K. Venkataraman and; M.L. Bhargav, Adv

Judgement :

B.N. Kirpal, J.

(1) This order will dispose of Civil Writ Nos. 132 and 2535 of 1990. The petitioners were appointed as Beldars in the year 1980-81 at the time when the Delhi Development Authority was taking up the projects connected with Asian Games. Thereafter, it is not in dispute that the petitioners who were daily wagers were appointed as Lower Division Clerks (LDCs.), but again as daily wagers. It is also not in dispute that in the appointment letters it was indicated that the petitioners

will have to pass written test and also typing test with a speed of 30 words per minute in order that they may be regularised.

(2) The petitioners have not been able to qualify till 1987 in the written test and the typing test. It is, however, stated by Mr. Chakraborty that in the year 1988 two of the petitioners had qualified both in written test as also the typing test.

(3) In the reply filed in Civil Writ No. 2535 of 1990, it has been stated by the respondent that in 1987 about 2200 candidates appeared in the test out of which 464, including one of the petitioners, had qualified only in the written test. Thereafter, typing test was held and out of 464 candidates, only 281 could qualify the typing test. Out of 281 candidates only 246 have been appointed as regular LDCs while the remaining 35 candidates having qualified, have still not been appointed because of lack of regular vacancies. It is further stated that 21 posts of LDCs have also been declared surplus and assessment of staff in the Engineering Wing has already been started and there is likelihood of about 225 posts of LDCs also being rendered surplus. It is further averred by Delhi Development Authority that due to non-availability of any vacancy of Ldc no appointment can be made on regular basis.

(4) According to the respondent the requirement of passing the written test and the typing test is a statutory rule. In our opinion, no recruitment can be made which is contrary to the statutory rules. It cannot be that, in contravention of the statutory rules, ad hoc appointment is made and after some time that appointment is regularised. The statutory rules for recruitment cannot be allowed to be circumvented in this manner. It is only where there are no statutory rules for recruitment and the vacancies exist that ad hoc employees or daily wagers, employed for sufficient length of time may but be entitled to be regularised. No recruitment, however, can be allowed which is contrary to the statutory rules. If the statutory rules contain a provision for relaxation, then possibly powers can be exercised of relaxation of the rules in favor of those employees who have been rendered services but for a number of years. It has not been shown in the present case if any such power of relaxation exists.

(5) In any case, in view of the fact that no vacancies are available, the question of the petitioners being regularised cannot arise. One can take Judicial notice of the fact that there was a temporary requirement of employees by the Delhi Development Authority in connection with the projects relating to the A said 1982. Once those projects were completed, it is but obvious that the requirement must necessarily decrease. It is noticed in this context that a study is being conducted which has already rendered 21 LDCs surplus and further 225 posts of LDCs are going to be declared surplus in the near future.

(6) In these circumstances no relief can be granted to the petitioners. The petitions are accordingly dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com