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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9248/2024 & CM Appl.37903/2024

THE MANAGEMENT OF DIRECTORATE OF HOME GUARDS

.....Petitioner

Through: Ms. Avnish Ahlawat, Standing
Counsel with Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam, Mr. Mohnish Sehrawat,
Advs.

versus

RAJENDER KUMAR AND ORS.

.....Respondents

Through: Mr. Rajiv Agarwal, Ms. Meghna De,
Ms. Gangmei and Ms. Surbhi Bagra,
Advs.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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09.07.2024

CM Appl.37904/2024[Exemption]

1. Allowed, subject to the Petitioner filing lengthy list of dates and typed copy of the annexures within a period of two weeks.
2. The Application stands disposed of.

W.P.(C) 9248/2024 & CM Appl.37903/2024[Stay]

3. The present Petition impugns an Award dated 12.04.2024 passed by the Industrial Tribunal-I, Rouse Avenue District Courts, New Delhi. By the Impugned Award, the learned Labour Court has found that the workmen are covered under the definition of Section 2(s) of the Industrial Disputes Act, 1947, as they have been performing skilled/unskilled/clerical nature of duties.
4. Learned Standing Counsel appearing on behalf of the Petitioner



challenges the Award on two grounds. In the first instance, it is submitted that the proceedings were carried out in a hurried manner and the principles of natural justice were not followed by the learned Labour Court.

5. On merits, it is contended by learned Standing Counsel for the Petitioner, that these are not workmen but are Home Guards. These Home Guards are employed under the Delhi Home Guard Rules, 1959 forming part under the Bombay Home Guards Act, 1947, as extended to Delhi [hereinafter referred to as the “Rules”]. It is also contended by learned Standing Counsel for the Petitioner that Rule 8 of the Rules provides that the engagement of Home Guards is voluntary in nature and that they have a tenure which cannot exceed three years. She seeks to rely upon the following judgments; ***Grah Rakshak, Home Guards Welfare Association v. State of Himachal Pradesh & Ors.***; (2015) 6 SCC 247, ***Man Sukh Lal Rawal & Ors. v. Union of India & Ors.***; 1999 SCC OnLine Del 414 and ***Rajesh Mishra v. Government of NCT of Delhi***; 2002 SCC OnLine Del 483 to submit that these workmen cannot be regularised.

6. Learned Counsel for the Respondents who appears on advance Notice and refutes the contentions of the Petitioner. He submits that adequate opportunity was given to the Petitioner to present its case. It is further the contention of the learned Counsel for the Respondents that the Respondents are not “volunteers” but are in fact the employees of the Petitioner.

7. The matter requires examination.

8. Issue Notice. Learned Counsel for the Respondents accepts Notice and seeks time to file a Counter-Affidavit.

9. Counter-Affidavit be filed within a period of six weeks.

9.1 Rejoinder, if any, be filed within a period of two weeks thereafter.



10. Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court on an urgent basis.
11. Learned Counsel for the Respondents submits that a complete copy of the paper book be supplied to him. Let the needful be done within two days.
12. List on 01.10.2024.
13. In the event, any coercive steps are taken by the Respondents, the learned Counsel for the Petitioner is at liberty to file an appropriate Application for early hearing in the matter.
14. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 9, 2024/r

Click here to check corrigendum, if any