

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 4852 OF 2009

PRE-PAID TAXI/TSR WORKERS ASSN.

Appellant (s)

VERSUS

GOVT.OF N.C.T OF DELHI & ORS

Respondent(s)

(With prayer for interim relief and office report)

Date: 17/05/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE DIPAK MISRA
(VACATION BENCH)

For Appellant(s) Mr. Vikas Singh, Sr. Adv.
Ms. Amrita Narayan, Adv.
Mr. Vivek Singh, Adv.
Ms. Udita Singh, Adv.
Mr. Lakshmi Raman Singh, Adv.

For Respondent(s) Mr. S. Wasim A. Qadri, Adv.
Mr. Zaid Ali, Adv.
Mr. Tamim Qadri, Adv.
Ms. Asha G. Nair, Adv.
Mr. D.S. Mahra, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the
signed order.

(DEEPAK MANSUKHANI) (M.S. NEGI)
Court Master Court Master
(The signed order is placed on the file)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 4852 OF 2009

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Appellant (s)

VERSUS

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O R D E R

Calling in question the legal substantiality of
the order dated 15.12.2005 in LPA No. 2615-2617 of
2005 by the Division Bench of the High Court of Delhi
wherein the said Bench has unsettled the order dated
May 23, 2005 in Writ Petition(C) No. 1127 of 1994 and
other connected matters wherein the learned Single
Judge has issued many a direction in various
paragraphs and eventually had expressed a fond hope

which had the character and flavour of directions.

Be it noted that the respondent-association along with others moved the writ court for issue of a writ of mandamus to the respondents to implement the recommendations as recommended in the report prepared and submitted by the Ministry of Personnel, Grievances & Pension in March, 1993 and apply the Public doctrine of 'equal pay for equal work' in the case of each employee working under the Pre-Paid Taxi/TSR Scheme of Delhi Traffic Police corresponding to the employees working on the corresponding posts in the Department of Delhi Traffic Police. A further direction of mandamus was sought to respondent nos. 1 & 2 to regularise the petitioners and every employee who has been working with the respondent nos. 1 & 2 under the Pre-Paid Taxi/TSR Scheme of Delhi Traffic Police for more than one year and to pay all consequential service benefits to them w.e.f. the date of their initial appointment.

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It is apposite to note that Division Bench has dislodged the order and expressed the view that the concept of regularisation and the principle of equal pay for equal work was not attracted; that the employees were working under scheme and not holding any post to claim a right; and that view expressed by the learned Single Judge towards the end of the judgment was a pious hope and the same cannot treated to be binding.

Be it noted, the Division Bench has taken note of the factum that the learned Single Judge has fixed a time frame and that is why it has opined that it would not be binding.

Criticising the order passed by the Division Bench, Mr. Vikas Singh, learned senior counsel for the appellant has submitted that the Division Bench has totally failed to appreciate that the learned Single Judge has neither dealt with the facets of regularisation or equal pay for equal work. It is urged by Mr. Singh that learned Single Judge had stated to the extent that as most of the employees are working as clerks and accountants, had been working there for more than two and a half decades and, therefore, they should not be removed in an arbitrary manner without holding a disciplinary inquiry in case of misconduct and an attempt has to be made to give status of permanence to them, regard being to the fact that their bread and butter cannot be put to jeopardy and they cannot be allowed to live in the realm of uncertainty.

Mr. S. Wasim A. Qadri, learned counsel appearing for GNCTD submitted that the order passed by the Division Bench is wholly sustainable inasmuch as in the observations of the learned Single Judge, a status is conferred on the persons who had approached

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the Court and there was a direction to encaderise them when the law clearly lays down that the Court cannot issue a Writ of Mandamus to create a cadre.

Having heard learned counsel for the parties, we are only inclined to state that the Court cannot direct for creating a cadre. The two concepts, namely, regularisation and equal pay for equal work are not attracted in the case at hand. However, regard being had to the fact which has been vehemently emphasised by Mr. Singh, learned senior counsel appearing for the appellant that the scheme, namely, the pre-paid taxi/TSR scheme of Delhi Traffic Police is in vogue since 1986 and hence some effort should be made by the authority to give some kind of certainty and stability to the persons who have volunteered to be the member of the Scheme.

Keeping in view the enormous problem of lack of opportunity to get employment, and taking note of the fact that hope gets kindled in the hearts of every person, we only observe that the persons who are in the scheme should not be removed or dislodged from the scheme for the sake of it. However, we may not be understood to have stated that there would be an enquiry while uprooting them from the scheme or the system. We may further note that human spirit lives with hope and when hope is dead, life becomes extinct.

Considering the totality of circumstances, we direct that if a representation is submitted by the appellant-association within a period of three months from today, the same shall be considered by competent authority in accordance with law and other parameters within a period of six months therefrom. We may hasten to clarify that we have not expressed any opinion.

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With these observations, the appeal is disposed of.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(DIPAK MISRA)

NEW DELHI
MAY 17, 2012.