

Jitender Kumar

Vs

Union of India and others

Writ Petn. Nos. 1174, 1454 of 1986, C.A. Nos. 545, 644 of 1987 and S.L.P. (C) No. 11659 of 1989
C.M.P. Nos. 9732-33 of 1989

(Ranganath Misra, M. M. Punchhi, K. Ramaswamy JJ)

06.09.1990

ORDER

1. Leave granted in S.L.P. (C) No. 11659/1989.

Heard learned counsel for the parties. Petitioners in Writ Petitions Nos. 1174, 1454 of 1986 and appellants in Civil Appeals Nos. 545 and 644 of 1987 and Civil Appeal No. of 1990 (arising out of S. L. P. No. 11 659 / 1989) totalling in all 148 were employed as casual labourers in the Indira Gandhi International Airport at Delhi during the period the Airport was under construction. When the construction was over the excess labour force was retrenched.

2. On the basis of a statement of the Minister in answer to a question in the Lok Sabha which has been placed on record upon affidavit, it was asserted by counsel for the petitioners that there were vacancies available and yet petitioners have been kept out of employment. We have heard counsel for the parties on the basis of documents made available to us and we find that the number indicated by way of answer in Parliament related to all the four international Airports in the country. Now a break-up of International Airport at Delhi has been supplied to us from which we find the total number of available vacancies to be 44 in different categories - four belonging to the general category and 40 to the reserved ones. Mr. Sibal, learned Additional Solicitor General, agrees that in respect of these vacancies such of the petitioners who qualify for appointment shall be provided; and thereupon they will become regular employees. We make it clear on the basis of the statement made to us at the Bar by Mr. Sibal that the age bar shall be condoned and priority shall be on the basis of length of service rendered by the petitioners /appellants. The usual verification before regular appointment is given may be made.

3. Counsel appearing for the petitioners/ appellants contended next that contrary to the provisions of Contract Labour (Abolition) Act, work has been provided to contractors and contractors have employed scores of people other than the petitioners. We do not think it would be appropriate for us to look into that aspect as neither the contractors nor those employed by them are parties to these proceedings and any direction made would amount to dislodging some of the people so employed without affording them any opportunity of being heard.

4. Quite a number of people would be left uncovered by our present order. In regard to them Mr. Sibal has agreed that first preference would be given in respect of employment available in future subject to their entitlement on the basis of length of service; this is so particularly because certain

claims are pending adjudication at the instance of others who are not before us for similar reliefs elsewhere. He has further agreed that in the event of any further work being assigned to contractors, at the time of assignment, a condition would be imposed that such of the petitioners who remained unemployed shall be provided employment under contractors on priority basis.

5. Counsel for the parties indicates that some dispute is pending before the Industrial Tribunal under the Industrial Disputes Act of 1947. Our order would not affect the proceedings on merit.

6. In view of the statement made by Mr. Sibal before us we take it that only these petitioners/appellants would be provided employment, subject to the conditions indicated above, and others would not be covered by the, order. The appeals and writ. petitions are disposed of. No costs.

Order accordingly.

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