

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.3668/2018
M.A. No.4070/2018

Wednesday, this the 26th day of September, 2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

1. Akhila S
Aged about 34 years
w/o Sh. Vinod B,
Designation Sister Tutor
r/o F-69, UG-1, Group B
Dilshad Colony, Delhi
2. Shanti Kathet
Age about 35 years,
Group B
w/o Sh. Deepak Singh
r/o 948, Devi nagar
Designation Sister Tutor
Street No.9, Sodala
New Sanghaner Road
Jaipur

..Applicants

(Mr. Harish Kumar, Advocate)

Versus

1. East Delhi Municipal Corporation
Through Commissioner
Udyog Sadan, Patparganj
Delhi – 110 092
2. The Assistant Commissioner (Health)
East Delhi Municipal Corporation
Udyog Sadan, Patparganj
Delhi – 110 092
3. Medical Superintendent
Swami Dayanand Hospital
Dilshad Garden, Delhi – 110 095
4. Principal
RVS Nursing School
Dilshad Garden, Delhi – 95

..Respondents

O R D E R (ORAL)

Mr. K.N. Shrivastava:

M.A. No.4070/2018

M.A. seeking joining together in a single petition is allowed.

O.A. No.3668/2018

The applicants are working as Sister Tutor on contract basis in East Delhi Municipal Corporation (East DMC). They were appointed as such vide orders dated 07.07.2018 and 02.04.2013 (Annexure A-3 (colly.) respectively. Their initial appointment was for a period of six months, which has been extended from time to time. The applicants had approached this Tribunal earlier in O.A. No.66/2017, which was disposed of vide order dated 09.01.2017 with a direction to the respondents to decide the pending representation of the applicants.

2. In compliance of the directions of this Tribunal vide order dated 09.01.2017, the respondents have disposed of the representation of the applicants by passing Annexure A-1 (colly.) order dated 07.07.2018. Relevant portion of the said order is extracted below:-

“Since sufficient number of candidate were not appointed by DSSSB, some Sister Tutor engaged on contract basis by Health Department, EDMC to run Health Services uninterruptedly with the condition that they will work till the expiry of their contract period or till the post filled on regular basis while DSSSB whichever is earlier as a stop gap arrangement.

It is further stated that there is no policy in Health Department/EDMC for regularisation of Sister Tutor engaged on contract basis. In fact regular Sister Tutor are appointed through DSSSB as per the provisions of the Recruitment Rules of the post.

The Recruitment Rules of Sister Tutor also provide that consultation with UPSC/DSSSB is necessary for filling up of their vacant posts. As such these contractual Sister Tutors cannot be regularized as per provisions of Recruitment Rules.”

3. Heard Mr. Harish Kumar, learned counsel for applicants. He submits that no regular recruitments have been made against the posts held by the applicants, but they apprehend that they may be replaced by another set of contractual employees. However, no document has been placed on record to substantiate this fear. It is settled law that one set of contractual employees cannot be replaced by another set of contractual employees. As of now, there is no threat to the applicants of losing their employment. Pertinent to observe that the contractual employees can be replaced only under two situations; (a) if their work is found to be unsatisfactory; (b) if the regular appointments are made against the posts held by them. Both these situations are non-existent at present. As such, we are of the view that there is no cause of action as at present. Needless to say that the applicants always have liberty to take recourse to the legal remedy, as available to them under the law, in case any cause of action arise threatening their present employment.

4. In the conspectus of the observations made in the pre-paragraph, this O.A. is disposed of at the admission stage itself.

(S.N. Terdal)
Member (J)

September 26, 2018
/sunil/

(K.N. Shrivastava)
Member (A)