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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 28th January, 2022
+ **W.P.(C) 1530/2022 & CM APPL. 4384/2022**

RAMESH KUMAR & ORS. Petitioners

Through: Mr. Anand Jha, Advocate.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Rajat Arora, Advocate for R-3.
Mr. Neeraj, Mr. Sahaj Garg, Mr.
Vedansh Anand & Mr. Rudra Paliwal,
Advocates for R-1&2.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by 44 part-time sweepers who are employed with the Respondent No. 3- Punjab National Bank. The grievance of the Petitioners is that their industrial disputes have been pending for more than 10 years before the Central Government Industrial Tribunal, and the same are not being adjudicated upon. It is submitted that recently, there are no hearings being held in CGIT-1, Rouse Avenue Court Complex, Delhi due to lack of quorum. In the meantime, a fresh advertisement dated 26th December, 2021 has been issued by the Bank for the recruitment of 188 part-time sweepers. Thus, the Petitioners- who are 44 in number- pray that they ought to be given preference in the recruitment to be undertaken, in response to the said advertisement.
3. The said advertisement has been perused by the Court. As per the said advertisement dated 26th December 2021, the Bank has called for

applications for recruitment of 188 part time sweepers. This Court on the last date of hearing, considering the fact that a large number of part time sweepers are being recruited by the Bank and that the Petitioners were working with the bank for several years, asked the Id. Counsel for the Petitioners to place on record a chart containing the following details:

“1. Name, address and complete contact details of the Petitioners.

2. Age, Date of Birth along with the proof of Date of Birth of the Petitioners.

3. Whether or not the Petitioners fall in any of the categories such as SC/ST/OBC/EWS/Persons with Special Abilities?”

4. The said chart has been filed and reveals the following facts:
 - i. Petitioner identified at S. No. 14, 15, 28, 29, and 33 of the said document i.e., Mrs. Rakhi w/o Shri Rajesh Kumar, Mr. Akash S/o Shri Ajnash, Mr. Akash Kumar S/o Shri Anod Kumar, Mr. Harkesh Kumar S/o Shri Kishan, Mrs. Preeti Mehraliya W/o Shri Deepak Kumar are within the age limit of 29 and they all belong to *Balmiki*- Schedule Caste category.
 - ii. That 27 Petitioners fall within the age bracket of 29-45.
 - iii. That 10 Petitioners fall within the age bracket of 46 to 55 years.
 - iv. That 2 Petitioners fall within the age bracket of 56 to 59 years.
5. As per the said advertisement which has been issued by the bank, the age limit condition has been fixed at maximum 24 years as on 1st July 2021. However, there is a 5 year relaxation in respect of applicants belonging to the Schedule Caste. Thus, in terms of the chart all those Petitioners who would qualify straightaway the age limit under the said advertisement could

be permitted to file their application in response to this advertisement on or before 10th February, 2022.

6. Insofar as the other Petitioners between the age of 29 to 45 are concerned, the Bank could as to whether the age limit could be relaxed and whether some preference could be given to these Petitioners who are working with the Bank for a long time in view of the special circumstance of the present case.

7. In any event, Mr. Arora, Id. Counsel for the Bank submits that during the pendency of the industrial dispute, which has already been raised by the Petitioners, their service conditions cannot be altered in view of Section 33 of the Industrial Disputes Act, 1947. It is his submission that the Bank does not intend to alter their service condition or take any steps for termination of the Petitioner without following the provisions of Section 33 of the Industrial Disputes Act, 1947.

8. In the backdrop of the above factual position, accepting the said statement given on behalf of the bank, the following directions are issued:

1. Insofar as all the Petitioners are concerned, the Bank shall scrupulously adhere to Section 33 of the Industrial Disputes Act, 1947.
2. Insofar the Petitioners who are automatically eligible in terms of the advertisement are concerned, they shall be permitted to put in their applications on or before 10th February, 2022 in response to the advertisement dated 26th December, 2021.
3. Insofar as other Petitioners between the age of 29 to 45 are concerned, the bank shall consider age relaxation for them in the special circumstances considering the long duration for

which the said employees are working with the Bank. The said consideration shall be done within a period of ten days and if the same is favourable to the employees, they shall also be permitted to file applications in response to the advertisement.

9. Further, considering that these part time sweepers have been working with the bank for several years, the CGIT would attempt expeditious disposal and in any case within six months.

10. However, ld. Counsels appearing in this matter submit that presently there is no Presiding Officer in CGIT-I and thus hearings in the matter are currently not taking place in the matter. On this point, Mr. Neeraj, ld. Counsel appearing for Union of India submits that the first meeting of the Search-cum-Selection Committee was held in December, 2021 and the draft advertisement has already been sent for approval and the same is likely to be issued shortly.

11. In *WP(C) No. 3040/2021* titled *Abdul Majid & Ors. v. ESIC & Ors* this Court had passed various directions in respect of the infrastructure in the CGIT for virtual hearings and had also sought a status report qua the filling up of vacancies in CGIT. On 21st December 2021, the said writ petition was disposed of with direction that the vacancies shall be filled in an expeditious manner. The said order reads:

“2. In terms of order dated 28th July, 2021, status report has been placed on record by the Union of India. As per the said status report and the submissions made by the ld. Counsels for the parties, the following progress is noticed to have been made:

i) Outsourcing staff have been engaged for each Bench of the CGIT, and the Tribunal has

engaged them, with effect from October, 2021.
ii) *Presiding Officer, CGIT-II is holding Court regularly and also conducting online hearing and recording of evidence. Insofar as Presiding Officer, CGIT-I is concerned, it is stated that the selection process in respect thereof is at an advanced stage. The Search and Selection Committee for the same has been constituted. Vacancy circular is yet to be issued.*

3. Let the vacancy circular for filling the post of Presiding Officer, CGIT-I be issued within four weeks. Let the steps for filling the said post be taken in an expeditious manner.

4. If any further licenses, including internet licences or Webex licences are required, the Tribunal would be free to obtain the same.

5. This matter need not be listed further.”

12. It appears that post the passing of the above order, the process of filling of vacancies in CGIT-1 is still underway. Accordingly, let a status report in respect of the filling up of the vacancies in CGIT-I be filed by the Union of India within 4 weeks.

13. The present petition along with all the pending applications is disposed of in the above terms. List for the consideration of the status report on 18th April 2022.

**PRATHIBA M. SINGH
JUDGE**

JANUARY 28, 2022/Aman/SK