

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 2476/2006**
% **Date of Decision: 04TH NOVEMBER,2009**
SHRI GULAB SINGHPETITIONER
! Through: Mr. Anuj Aggarwal, Advocate.
VERSUS
\$ M/S MUNICIPAL CORPORATION OF DELHIRESPONDENT
^ Through: Mr. Rahul Srivastava, Advocate.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper may be allowed to see the judgment? **NO**
2. To be referred to the reporter or not? **NO**
3. Whether the judgment should be reported in the Digest? **NO**

S.N.AGGARWAL, J (ORAL)

The petitioner workman, in this writ petition, seeks to challenge an industrial award dated 03.09.2004 granting him no relief for alleged termination of his services by the management of the Municipal Corporation of Delhi w.e.f. 27.02.1993.

2 The petitioner was employed as a daily wager Beldar by the respondent on muster roll w.e.f. 26.08.1992 and was paid wages under the Minimum Wages Act prevalent at that point of time. He was appointed for a specific work and his appointment was limited in duration of time. The petitioner had hardly worked for about six months with the respondent when he was disengaged by the respondent w.e.f. 27.02.1993. In fact, the petitioner had worked with the respondent as daily wager Beldar for about six months from 26.08.1992 to 27.02.1993.

3 The petitioner aggrieved by his termination had raised an industrial

award which was referred by the appropriate Government in the Government of NCT of Delhi to the Labour Court for adjudication. The Labour Court vide its impugned award has held that the disengagement of the petitioner was neither illegal nor unjustified. For that reason, he was not granted any relief by the Labour Court.

4 Mr. Anuj Aggarwal learned counsel appearing on behalf of the petitioner contends that the termination of the petitioner from the service of the respondent was in violation of Rule 77 of Industrial Disputes (Central) Rules, 1957. He further contends that the termination of the petitioner from the service of the respondent w.e.f. 27.02.1993 was also in violation of provisions contained in Section 25 G and H of the Industrial Disputes Act, 1947.

5 I have carefully considered these arguments advanced on behalf of the petitioner but I have not been able to persuade myself to agree with any one of them.

6 It is not disputed on behalf of the petitioner that he had worked as daily wager Beldar on muster roll with the respondent only for a period of six months from 26.08.1992 to 27.02.1993. I do not find any violation of Rule 77 of the Industrial Disputes (Central) Rules, 1957 or of Section 25 G and H of the Industrial Disputes Act, 1947 as sought to be contended on behalf of the petitioner. Rule 77 provides for maintenance of seniority list of the workmen for the purpose of retrenchment. The case of the petitioner, in view of provisions contained in Section 2 (oo)(bb) of the Industrial Disputes Act, 1947 does not fall within the ambit of expression 'retrenchment'. He had not completed 240 days of continuous service in the year preceding the date of his termination. Section 2 (oo)(bb) takes out the case of a workman from the purview of retrenchment in case his appointment was for a limited period. I also do not find any violation of

Section 25 G or 25 H of the Industrial Disputes Act in the present case.

7 Learned counsel appearing on behalf of the petitioner had drawn my attention to ground (viii) taken by the petitioner in his statement of claim (relevant portion of which is at page 21 of the paper book) to contend that the petitioner has specifically pleaded that the petitioner was meted out with hostile discrimination as persons juniors to him were retained in service and he has been thrown out of job. This plea taken by the petitioner was a vague plea. He did not give particulars of any person junior to him who might have been retained in service by the respondent. In that view of the matter, the provisions of Section 25 G and 25 H of the Industrial Disputes Act, 1947 do not help the case of the petitioner who had hardly worked for about six months as daily wager Beldar with the respondent. The Supreme Court in ***Himanshu Kumar Vidyarthi and Others Vs. State of Bihar and others (1997) 4 SCC 391*** has held that the daily wagers after their disengagement are not entitled to continue in service after completion of work for which they were engaged by the employer. It may be noted that the appointment of the petitioner with the respondent as daily wager was not made after following the due procedure of recruitment required to be followed in public appointments. His appointment was contrary to principles contained in Articles 14 & 16 of the Constitution of India.

8 In view of the above, I do not find any infirmity of illegality in the impugned award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India. This writ petition therefore fails and is hereby dismissed.

NOVEMBER 04, 2009, a

S.N.AGGARWAL, J