

Government of India  
Ministry of Labour & Employment,  
Central Government Industrial Tribunal-Cum-Labour Court-II, New  
Delhi.

Present:

Smt. Pranita Mohanty,  
Presiding Officer, C.G.I.T.-Cum-Labour  
Court-II, New Delhi.

**INDUSTRIAL DISPUTE CASE NO. 65/2019**

**Date of Passing Award- 15<sup>th</sup> May, 2023**

Between:

Sh. Manoj Kumar and 03 Others,  
Through- The President , MCD General Mazdoor Union,  
Room No. 95, Jam Nagar House, Shahjahan Road,  
New Delhi-110011. , Workman

Versus

The Commissioner,  
North Delhi Municipal Corporation, 4<sup>th</sup> Floor, Civic Centre,  
Minto Road, New Delhi-110002.  
Management

Appearances:-

Shri B. K Prasad, Ld.A/R for the claimant.

None for the management.

### **AWARD**

In the present case, a reference was received from the appropriate Government vide letter No.L-42011/2/2019 (IR(DU)) dated 14.02.2019 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

*“Whether the action of the management of North Delhi Municipal Corporation in denying regular appointment on compassionate grounds to workmen Sh. Manoj Kumar & 3 others whose details are mentioned herewith in Annexure-A is fair, Legal and justified? If not what relief the workmen are entitled to?”*

As per the claim statement the claimant Manoj Kumar, Vijay Kumar, Smt Premwati and Meenu Kumari are the legal A/Rs of some ex-employees of the management as described in the table appended at the bottom of this award. After the death of their predecessors these claimants made an application requesting compassionate appointment. They were given compassionate appointment from the date as mentioned in the table referred above. However, there appointment is on daily wage basis. In fact they should have been appointed as regular field workers since the persons through whom they were claiming the regular field worker. The deceased employees have left behind the family liability and the claimants are shouldering the responsibility of their respective families. Though, as per the policy of the mgt the compassionate appointment are to be made against regular post as per the direction of DOPT in which the object of the compassionate appointment scheme is very clear that the mgt refused to appoint the claimant against regular post which amount to unfair labour practice and

injustice meted to the claimants. All their representations made in this regard were not considered. Finding no other way they raised a dispute before the conciliation officer but the conciliation failed and the claimant's grievance was referred to this tribunal for adjudication.

The mgt being noticed appeared and filed objection stating therein that the claim is not maintainable and the same is nothing but an abuse of process. It has been stated that the Govt. vide notification issued by DOPT has limited the compassionate appointment to 5% of the regular vacancies occurring in a year. For the huge number of applications received, the mgt as a good gesture has notified a policy to employ one of the legal heirs of the deceased employee on contract basis. There is no policy for regularization of the said employee employed on contract basis. The earlier circular was issued on 11.10.2007 and the same was replaced by circular dated 16.12.2008. According to this circular one of the family members of the deceased shall be appointed on contractual basis for class 4<sup>th</sup> post with the prevailing minimum wage and the appointment shall be extendable for 5 years. These claimants were appointed on the basis of the said circular. Hence, their appointment is on daily wage basis and their prayer for absorption to regular cadre is not maintainable.

On these rival pleadings the following issues framed:

1. Whether the proceeding is maintainable?
2. Whether the workmen are entitled to regular appointment on compassionate ground?
3. To what relief the workmen are entitled to?

On behalf of the claimants Sh. B.K Prasad the president of MCD Gen. Mazdoor union testified as the authorized representative. He filed few documents marked as Exht. WW1/1 to Exht. WW1/5. The

document WW1/1 is the list of the workmen appointed on compassionate ground, WW1/2(colly) are the appointment letters of the claimants , WW1/3 is the policy of DOPT for compassionate appointment.

On the basis of these documents and the oral statement adduced by WW1 who has not been cross examined by the mgt. The Ld. A/R for the claimants submitted that as per the circular of DOPT when an employee working against a regular post dies in harness one of his family members shall be appointed against a regular post. But the mgt in gross violation of the said circular subjected to the claimants to unfair labour practice by appointing them as contractual daily wagers.

This evidence has not been contradictory by the mgt in any manner by adducing rebuttal evidence. Hence, from the unchallenged evidence on record it is concluded that the claimants are entitled to the relief sought for. Hence ordered.

### **ORDER**

The reference be and the same is answered in favour of the claimants whose names have been mentioned in the list annexed to this award. It is held that the mgt of NDMC in denying regular appointment to the claimants on compassionate ground is unfair and illegal. It is further directed that the mgt shall make their services regular w.e.f their initial appointment and grant them all benefits including salary, leave etc. The mgt is further directed to implement this award within 30 days from the date of publication of the award, failing which the party is at liberty of getting the order executed and claiming interest @3 % on the financial entitlements from the date of accrual and till the payment is made. The list of the claimants is attached herewith as annexure –A:-

**List of the workmen**

Sr. No	Name of the workers	Father's Name of the workers	Designation
1	Manoj Kumar	Randhir Singh	Field worker
2	Vijay Kumar Vats	Umesh Kumar	Field worker
3	Smt. Premwati	W/o Ganga Ram	Field worker
4	Meenu Kumari	D/o Ishwar Singh	Field worker

Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer  
CGIT-Cum-Labour Court.  
15<sup>th</sup> May, 2023

Presiding Officer  
CGIT-cum-Labour Court.  
15<sup>th</sup> May, 2023.