

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. 78/2016

Date of Passing Award- 17.08.2022

Between:

Shri Naresh Pal & 27 others through MCD General,
Room No. 95, Barrack No. 1/10,
Jamnagar House, Shajanhan Road,
New Delhi.

Workman

Versus

The Commissioner (North),
North Delhi Municipal Corporation,
4th Floor, Civic Centre, Shyama Prasad Mukharjee
Marg, Minto Road,
New Delhi-110002.

Management

Appearances:-

Shri B K Prasad
(A/R)

For the claimant

Shri Shitiji Vats
(A/R)

For the Management

A W A R D

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of North Delhi Municipal Corporation, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L-42011/75/2016 (IR(DU) dated 24/08/2016 to this tribunal for adjudication to the following effect.

“Whether the workmen as mentioned in Annexure-A are entitled to the equal pay for equal work w.e.f 01.04.1988 and onwards, and are entitled to 50% other wages of services rendered as daily wages/Muster Roll? If not what relief the workman concerned are entitled to?”

As per the narratives in claim statement, the claimants described in Annexure A of the reference have been performing their duties in the works Division of North Delhi Municipal Corporation at Rohini in different capacity such as Beldar, carpenter, Nala Beldar etc. They were initially appointed as Muster Roll Employees and their initial date of appointment were different, but within the period between 1989 to 2001. On different dates all the claimants as per Annexure A were regularized in service and working as such till date. In the year 2013 some employees of NDMC had approached the Hon’ble High Court of Delhi claiming equal pay for equal work and other benefits. The Hon’ble Division Bench of the High Court, by

their order passed in LPA No 573/2013, titled as NDMC vs. Harpal Singh & Others granted equal pay for equal work to the applicants with effect from 1.4.88 on wards and also allowed the prayer for counting 50% of the period of service rendered as Muster Roll Employees for the pensionary benefits. The claimants of the present proceeding stand in same footing as that of Harpal Singh & others and thus demanded the same benefit as allowed by the Hon'ble High Court of Delhi and implemented by the management NDMC. But their representation was never considered by the management and the claimants approached the MCD General Mazdoor Union for redressal of their grievance. Steps were taken for conciliation and the same since failed, the appropriate Government referred the matter to this Tribunal for adjudication as per the terms of the reference. The claimants in this claim have prayed for a direction to the management to grant them equal pay for equal work from the date of their initial engagement in Muster Roll and for counting 50% of the period spent as Muster Roll Employee for pensionary benefits. The claimants have relied upon the judgment passed by the Hon'ble High Court of Delhi in LPA No 573/2013 and the policy circular of the Management dated 21/10/1990 and the minutes of the meeting of the senior officers of the management held on 11th June 1988.

Being noticed the management NDMC appeared and filed written statement challenging the claim on various legal and factual grounds. It has been pleaded that the claim is not maintainable for want of cause of action and the issue of equal pay for equal work is a policy decision to be taken by the Management and can be implemented after due approval of the house of NDMC. The claim of the claimant that the management took a decision to grant pay to its employees at par with the employees of CPWD is false. The other stand of the management is that NDMC being an Autonomous Body formulates its own policy with regard to the service condition of the employees and in phased manner regularizes the service of the Muster Roll Employees taking into consideration their seniority and subject to the availability of work and post. But on no occasion, the said Muster Roll Employees after their regularization, have been allowed to draw equal pay for equal work from the initial date of joining in the Muster Roll. It has also been pleaded that the Management, as per its circular dated 08/09/2000, is considering and counting 50% of the period of service in Muster Roll for pensionary benefits. Hence the management has pleaded for dismissal of the claim as not maintainable.

On the basis of the pleading the following issues were framed.

ISSUES

- 1- whether the claim is not legally tenable in view of the various objections taken by the management
- 2- in terms of reference

On behalf of the claimants Shri B K Prasad in the capacity of the president of the union representing the claimants testified as WW1 and

produced few documents exhibited as Ext ww1/1 to WW1/6. These documents include the list of the workmen in respect of whom the reference has been received, the policy of CPWD dated 21/10/1990, with regard to the pay pattern of its employees, (ext ww1/2) minutes of the meeting of the senior officers of MCD adopting the pay pattern of CPWD, (ext WW1/3). Similarly on behalf of the management one of its engineer by name Jitendra Kumar testified as MW 1. He also filed three photocopies of the circulars to substantiate that the management is considering 50% of the period served as Muster Roll Employees for granting pensionary benefit to the employees after regularization of their service.

In view of the oral and documentary evidence adduced it is now to be decided whether the claimants are entitled to equal pay for equal work w.e.f the date of their initial appointment and are also entitled to calculation of 50% of the time served as the muster roll employee for calculation of their pensionary benefit. The evidence on record shows that the claimants were initially engaged as Beldar, carpenter, fitter, Nala Beldar etc and their date of initial appointment varies from 1989 to 2001. While one was appointed in the year 1980 and continued in the muster roll till 1988, some others were appointed in 1986, 1995, 1997. The detail dates of their appointment and regularization has been described in annexure-A appended to the reference received from the government. This aspect has not been disputed by the management either in the pleading or in the evidence. On behalf of the claimant a document has been filed and marked as exhibit WW1/3. This is the minutes of the weekly meeting of the senior officers of MCD wherein a decision was taken on 16.06.1988 to increase the wage of daily rated unskilled workers in accordance with the decision of the Hon'ble Supreme Court and a pay scale was also prescribed. In the said meeting it was also decided that the equal pay for equal work shall be extended following the pay pattern of CPWD and in compliance of the direction of the Hon'ble Supreme Court.

The Hon'ble Supreme Court in the case of **Surender Singh vs. Engineer in Chief CPWD (ATR 1986 SC Page 1976)** decided on 17.01.1986 while dealing with the question of equal pay for equal work in respect of the daily rated workers performing the same duty as performed by their regular counter parts held that there should be equal pay for equal work of equal value. The court observed that it makes no difference whether such workmen are employed against sanctioned post or not so long as they are performing the same duties. Hence, they must receive same salary and condition of service at par with the regular employees discharging the same nature of work. A similar view was also taken by the Hon'ble Supreme Court in the case of **Randhir Singh vs. Union of India (1982)1 SCC 618** wherein the Hon'ble Apex Court came to hold that for discharge of equal nature of work the employees are entitled to equal pay. It doesn't matter if they are working in different departments. Again in the year 2017 the Hon'ble Apex Court in the case of **State of Punjab vs. Jagjit Singh (2017)**

LAB.I.C 427 while considering the concept of equal pay for equal work have observed:

“the Principle of equal pay for equal work can be extended to temporary employees though differently described as work charge, daily wage, casual, adhoc, contractual and the like. It is fallacious to determine artificial parameter to deny the fruits of labour. The employee engaged for the same work cannot be paid less than another who performs the same duties and responsibility. Such an action besides being demeaning strikes at the very foundation of human dignity. Anyone who is compelled to work on lesser wage does not do so voluntarily. He does so, to provide food and shelter to his family at the cost of self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffers immensely, if he does not accept the lesser wage. Any act of paying less wage as compared to other similarly situated constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation. ”

The matter came up for consideration before the Hon’ble High court of Delhi in the case of **NDMC vs. Harpal Singh (LPA No. 573 of 2013 decided on 27.08.2013)**. The Hon’ble High Court after considering the pronouncements of Hon’ble Supreme Court on the subject held that the daily rated employees working in the NDMC are entitled to the wage as paid by CPWD to the daily rated workers and also held that the said workers shall be extended the benefits of 50% of the service rendered as the daily rated workers for calculation of the length of service for the purpose of pensionary benefit. Thus, on a mindful reading and careful analyses of the above said judgments it appears that the Hon’ble Apex Court as well as the Hon’ble High Court of Delhi have taken a clear view and given a direction for giving the wage of the daily rated workers at par with the said workers of CPWD and to count 50% of their service rendered as daily wagers for computing the length of service to grant pensionary benefit. The document filed by the claimant shows that a decision to that effect was taken by MCD.

The Ld. A/R for the management during course or argument pointed out that NDMC is an autonomous body and no decision has been taken for grant of equal pay for equal work at par with the workers of CPWD. This argument of the management is not accepted in view of the pronouncement of the apex court and the decision taken by the MCD. It is worth mentioning here that the management has partly implemented the order of the Apex Court which is evident from the circulars filed by the management witness and marked as A, B, C being the photocopies. These documents shows that instructions were issued by the MCD to All Additional Commissioner and Heads of the department to count 50% service of the daily wager for

pensionary benefit following the instruction issued by the Central Government. Not only that by another circular dated 04.04.2012 marked as B the MCD had also issued a instruction to its officers to scrupulously follow the circular dated 08.09.2000 for calculating 50% of the service rendered by the daily wager for grant of pensionary benefit. The oral evidence of MW1 also supports this view. Thus, it is clear from the above oral and documentary evidence that the management has accepted 50% of the daily wage service for extending the pensionary benefits. Now, the question remains whether the claimants are entitled to equal pay for equal work and from which date? It is the argument of the Ld. A/R for the claimants that the said benefit shall be allowed to them w.e.f their initial date of appointment and after regularization. But the management took strong objection and argued that the same has never be allowed by NDMC in respect of any of its employees. In the case of Harpal Singh referred supra the claimants were granted equal pay for equal work w.e.f 01.04.1988 i.e. from the date of their initial appointment. It is not understood why there would be deviation in the case of the present claimants. From the facts and the evidence available on record it is clear that the management has already increased the wage of its staff from the date of their initial appointment as per the verdict of the Apex Court. The claimants of this proceeding stand in the same footing with that of the workers who have already been granted the said benefit. Hence it held that the wage of the claimants of this proceeding are to be calculated in the manner given in exhibit WW1/3 i.e. the observation made in the minutes of the weekly meeting of the senior officers from the date of their initial appointment as mentioned in annexure A to the reference received from the appropriate government. Since the management has already admitted that 50% of the service rendered as daily rated work are being taken into consideration for grant of pensionary benefits, no specific direction need to be issued presuming that the sais period rendered by the claimants shall be considered for extending pensionary benefit to them. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the claimants. It is held that claimants are entitled to equal pay at par with their regular counter parts on the Principle of equal pay for equal work as stated in resolution dated 16.06.1988 marked as WW1/3 from the date of their initial engagement as mentioned in annexure-A of the reference and shall also be granted the pensionary benefit taking into consideration 50% of the period of service rendered as daily wager. The management is directed to fix the pay of the claimants as stated above within 3 months from the date of publication of the award and release the arrear within 4 months from the date of publication of the award failing which the amount so accrued shall carry interest @9% per annum from the date of accrual and till the final payment is made. The list of the claimants to whom the benefits shall be granted is

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

LIST OF THE WORKMEN

S.No	Name	Father's name/Husband's name	Designation	Date of Employment on Muster Roll	Date of Resignation
1.	Naresh Pal	Shri Kamal Singh	Beldar	15.11.1995 to 31.03.2003	01.04.2003
2.	Ashok Singh	Sube Singh	Beldar	15.9.1989 to 31.03.1995	01.04.1995
3.	Jai Prakash	Amir Singh	Beldar	09.03.1990 to 31.03.1995	01.04.1995
4.	Satbir	Gayashi Ram	Nalla Beldar	January 2001 to 31.03.2006	01.04.2006
5.	Ram Niwas	Ujjala Ram	Beldar	15.9.1989 to 31.03.1995	01.04.1995
6.	Sri Kishan	Chandu Lal	Beldar	15.9.1989 to 31.03.1995	01.04.1995
7.	Shashi Singh	Kedar Singh	Beldar	31.10.1995 to 31.03.2003	01.04.2003
8.	Ram Bhagat	Om prakash	Beldar	15.09.1989 to 31.03.1995	01.04.1995
9.	Naresh Kumar	Sat Pal	Beldar	April- May 1995 to 31.03.2003	01.04.2003
10.	Hari kishan	Dalip Singh	Beldar	May 1985 to 31.03.1990	01.04.1990
11.	Ajay Kumar	Ram Prakash	Beldar	15.09.1989 to 31.03.1995	01.04.1995
12.	Sataywan	Rati Ram	Beldar	20.10.1994 to 31.03.2003	01.04.2003
13.	Kusum Verma	Late Rambaby	Beldar (Collie)	01.01.1996 to 31.03.2003	01.04.2003
14.	Balwan Singh	Mahavir Singh	Beldar	July 1995 to 31.03.2003	01.04.2003
15.	Bachchan Singh	Bin Narain	Beldar	May 1995 to 31.03.2003	01.04.2003
16.	Naresh	Raghuveera	Nalla Beldar	January 2001 to 31.03.2006	01.04.2006
17.	Hawa Singh	Daya Chand	Nalla Beldar	February 1990 to 31.03.1995	01.04.1995
18.	Neeraj Kumar	Parveen Kumar	Nalla Beldar	January 2002 to 31.03.2006	01.04.2006
19.	Desh Raj	Kapoor Singh	Beldar	01.01.1982 to 29.01.1985	30.01.1985
20.	Bijender Singh	Raj Pal singh	Beldar	15.09.1995 to 31.03.2003	01.04.2003
21.	Mukesh Kumar	Phool singh	Beldar	May 1992 to 31.03.2000	01.04.2000
22.	Devender Singh Bisht	Late Alam singh Bisht	Beldar	15.01.1994 to 31.03.2004	01.04.2000
23.	Rampal	Bhoop singh	Beldar	06.09.1983 to 31.03.1989	01.04.1989
24.	Rakesh	Ram Kishan	Beldar	18.06.1983 to 19.09.1989	20.09.1989
25.	Joot Singh	Late Sundar Singh	Beldar	01.03.1985 to 31.03.1990	01.04.1990
26.	Manjeet Singh	Desh Raj	Painter	14.04.1995 to 31.03.2003	01.04.2003
27.	Sukhbir Singh	Ramu	Beldar	01.04.1985 to 31.03.1990	01.04.1990
28.	Ramkalam	Sadhu Ram	Beldar	10.03.1987 to 31.03.1999	01.04.1999

The reference is accordingly answered.

Dictated & Corrected by me.

Presiding Officer.
CGIT-Cum-Labour Court.
17th August, 2022

Presiding Officer.
CGIT-cum-Labour Court.
17th August, 2022.