

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, No. 2 DELHI**

ID No. 64/2019

**Sh. Vikram Singh Rana, S/o Sh. Harpal Singh Rana,
Through- The President, MCD General Mazdoor Union,
Room No. 95, Jam Nagar House, Shahjahan Road,
New Delhi-110011.**

VERSUS

**The Commissioner,
North Delhi Municipal Corporation,
4th Floor Civic Centre, Minto Road,
New Delhi-110002.**

Present: Sh. B.K Prasad, Ld. AR for the claimant.
Sh. Arvind Kumar, Ld. AR for the management.

Award

1. In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour and Employment, vide its Order No. **L-42011/225/2018-IR (DU)** dated 13.02.2019 has been pleased to refer the following dispute between the employer, that is the Management of North Delhi Municipal Corporation and their workman for adjudication by this Tribunal, terms of which are as under:

“Whether non-payment of wages by the management of North Delhi Municipal Corporation to Sh. Vikram Singh Rana S/o Sh. Harpal Singh Rana, Acting Chaudhary w.e.f. 01.01.1994 in the pay scale of Rs. 950-1500/- revised from time to time attached to the said post with all consequential benefits upto 31.12.2017, the date of superannuation as per direction of he Hon’ble High Court vide order dated 27.08.2013 is illegal and unjustified? If so, what directions are necessary in this respect?”

In pursuance to the reference, claimant had filed the claim statement stated that he has been employed on Muster Roll Mali on 21.05.1982. Thereafter, he was initially appointed as regular Mali on 03.01.1985. He had been performing the duty of an Acting Chaudhary w.e.f. 01.01.1994 till his superannuation up to 31.12.2017 under **Rohini Zone (Horticulture) under North Delhi Municipal Corporation**. Management has fixed the different pay scales to their employees including Mali, Chaudhary etc. in accordance to their job profile. He was not given the grant of proper pay scale of officiating Chaudhary w.e.f. 01.01.1994 to 31.12.2017 which amount to force labour and the management is indulging in unfair labour practice. He had got the payment in lower pay scale of Mali Rs. 750-940/- revised from time to time and he has been denied the pay scale of Rs. 950-1500/- for his duty performed as Chaudhary w.e.f. 01.01.1994

revised from time to time. He had stated that Hon'ble High Court of Delhi in the matter of **Jai Chand vs. MCD (CW No. 6514/2001)** has disapproved the non-payment vide order dated 02.05.2003 for the post of Chaudhary. The same stand has been taken by the Hon'ble Division Bench of High Court of Delhi in the matter of **MCD vs. Sultan Singh & Ors.** in W.P. (C) No. 7947/2010. As such, he claims that he may be awarded the payment of Acting Chaudhary in the pay scale of Rs. 950-1500/- revised from time to time to him w.e.f. 01.01.1994 up to his superannuation.

2. Respondent herein has filed the W.S. stating that the claimant does not disclose the correct facts and has filed the claim without any locus. Workman is not eligible for any kind of relief as prayed by him in the present application and the said application is nothing but an abuse of process of law and waste of precious judicial time. It has been submitted by him that workman was promoted as a Chaudhary in September, 2014 and on his retirement he had already received all the consequential benefit of his retirement. He submitted that there is no such provision in the rules of the respondent management of giving benefits of acting Chaudhary to the claimant because it is merely a change of work and administrative arrangement and not a promotion. He further submitted that workman is trying to misguide the court by showing the internal office record of the management whereas he has no such authority to use the official documents of the management, the same being for internal use of the management. He had denied that the management has fixed any pay scale for officiating Chaudhary. However, he had admitted that there are

different pay scales for different posts. He further denied that Mali and Chawkidar who are performing their duty as Acting Chaudhary were granted the pay scale of Chaudhary. He submitted that claim petition be dismissed.

3. After completion of pleadings vide order dated 14.08.2019, following issues had been framed:

- a. Whether the NDMC illegally refused to grant the revised pay scale to the workman w.e.f. 01.01.94 in the post of acting Choudhary.
- b. Whether the management illegally denied such revised pay scale to the workman upto 31.12.2017 the date of his superannuation ignoring the direction of the Hon'ble High Court vide order dated 27.08.2013.
- c. To what relief the claimant is entitled to.

4. In order to prove its claim, the workman himself had entered into the witness box. He deposed the fact that he was allotted the work of an Acting Chaudhary w.e.f. 01.01.1994 and performed his duty under Rohini Zone (Horticulture) till his superannuation up to 31.1.2017. His name has been appearing at Serial No. 25 in the list of officiating Chaudhary issued by the Dy. Director (Horticulture) West Zone which is **Exhibit WW1/1**. He submitted that he is entitled to the wages of Acting Chaudhary in the pay scale of Rs. 950-1500 revised from time to time w.e.f. 01.01.1994 up to 31.12.2017 along with all consequential benefits.

5. Witness was put to the cross-examination where he admitted that he had never lodged any complaint in the office of the management claiming his unpaid dues which is the subject matter of the present proceeding since he was

told that his matter shall be taken up by the management with the case of similarly placed person. In the year 2014 he has got the promotion to the post of supervisor from the post of Mali. He had filed the document which has been marked as Ex. WW1/1. This document was given to him by the management and he did not have the original. He had denied that the claim has been filed on the basis of false and fabricated document.

6. In rebuttal, one Sh. Rakesh Kumar, Assitant Director (Horticulture), Rohini Zone, MCD has been examined by the counsel of the management, wherein he had reiterated the facts and mentioned by him in the W.S. He had admitted that initially he had joined the MCD at the post of Maali. Thereafter, he was promoted to the post of Assistant Director in January, 2024. He admitted that Ex. WW1/1, the list of workmen including the workman in question who had been shown at Serial No. 25 as Acting Chaudhary. He stated that the list pertain to the west zone. West Zone was bifurcated and one of the zone was known as Rohini Zone.

7. I have heard the argument at par, perused the record and analyzed the evidence. The whole of the case of the claimant rest upon the fact that management witness has admitted the list Ex. WW1/1 wherein name of the workman had been shown at S.No. 25. He was 10th pass, appointed as "Mali" on 03.01.1985 and looking after the work of Acting Chaudhary w.e.f. 01.01.1994. He had made prayer that considering the above facts on record and in view of the judgment passed by the Hon'ble High Court in the case of **Municipal Corporation of Delhi vs. Sultan Singh & others W.P. (C) No. 7947 of 2010**, decided on 20.04.2011 where similarly placed person had

been given the higher scale so he be given the pay scale of Acting Chaudhary revised from time to time.

8. While the respondent stand is that the workman's service was earlier regularized as Mali in 1985 and he was promoted in the year September, 2014 and till then he has been paid all the benefit of the Acting Chaudhary. He was retired in the year 2017 and he had been paid all the benefits therein. He further submits that workman is not entitled to the benefit for the pay scale of the Acting Chaudhary.

9. Here, it is not disputed that the claimant has not been working as Acting Chaudhary since 1994. MW1 himself admitted the list issued by management where the name of the claimant has been shown as 10th pass and has been working as an Acting Chaudhary since 1994. Operating portion of the judgment of *Sultan Singh & Others* in which the workman has placed reliance, where in para no. 28, it was observed:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents

cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.”

10. It is not out of place mention here that even if the claimant herein was not a party in *Sultan's* case referred above, judgment of Hon'ble High Court is binding on the management and the management is required to implement the same. When the workman had been assigned the job of an 'Acting Chaudhary' i.e. a higher post than that of 'Mali' for so long (for the last 20 years), he should have been designated as Acting Chaudhary. However, if that was not done, then he would also be entitled for the pay scale of an Acting Chaudhary instead of Mali.

11. In the light of above discussion, issue no. 1 decided against the management and in favour of the workman. Issue no. 2 is also decided against the management and in favour of the workman.

12. In view of the above, workman/claimant is entitled to the pay scale of Acting Chaudhary since 1994 to 2014, when he was actually promoted to the post. Respondent herein is liable to pay the difference of the wages of Mali and Acting Chaudhary from the date, when the workman herein was performing duty till he was actually promoted, management

is directed to pay the entire difference of the salary within two months from the date of passing the award. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the I.D Act, 1947.

Date: 30.06.2025

ATUL KUMAR GARG
(Presiding officer)
CGIT-Cum-Labour Court-II