THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI – 1, ROOM NO.207, ROUSE AVENUE COURT COMPLEX, NEW DELHI

LCA NO. 1414/ 2022

Smt. Suresh Wati W/o Sh. Sundra Pal,
Through Authorized Representative,
C/o Aggarwal Bhawan, G.T. Road,
Tis Hazari, Delhi 110054 Claimant

Versus

The Commissioner,
Municipal Corporation of Delhi
Dr. S.P. Mukherjee Civic Center
Jawahar Lal Nehru Marg, Minto Road,
Delhi- 110002 Management

Shri Rajiv Agarwal, A/R for the claimant
None for the management

ORDER

1. An application was moved by the claimant, under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter "the Act") with the averments that she joined service with the management as Safai Karamchari. Her services were regularized on the post of Safai Karamchari with retrospective effect i.e., 20.08.1986. Since then, she had discharged services to the entire satisfaction of her superiors till her retirement w.e.f. 31.07.2015. But the claimant has not been paid any arrears of matric/non-matric, arrears of 1ST & 2nd MACP, arrears of Gratuity amount of Rs. 3,12,639/- (Rupees Three Lakhs Twelve Thousand Six Hundred And Thirty Nine Only). The claimant further claims interest on the due amount @ 18% per annum and litigation cost. The claim of the claimant has remained unrebutted and the management was proceeded as ex-parte on 16.01.2024.

2. At the stage of evidence, the claimant filed her affidavit and examined herself as WW1. In her examination in chief, the workman also relied upon documents Ex WW1/1 to Ex WW1/2. No one turned up from the management side for cross examination of the

workman witness. The cross examination of the workman witness was treated as nil. Workman evidence was thereafter closed. Management neither appeared nor led evidence. The management evidence was closed.

3. I have gone through the pleadings and documents placed on record by the parties and have heard the arguments from the AR of the Claimant. The workman has proved that the workman was regularized w.e.f. 20.08.1986. The management failed to rebut the claim of the workman. The A/R for the workman has also submitted that since the management concerned is exempted from the controlling authority under the payments of gratuity Act, this Tribunal is the only appropriate forum to claim the arrears of gratuity as well. In view of this the claim of the claimant regarding arrears of matric/non-matric, arrears of 1ST & 2nd MACP, arrears of gratuity to the tune of total accrued amount of Rs. 3,12,639/- deserves to be allowed.

4. Though the claimant has prayed for interest @18% per annum, the same is not allowed in view of the fact that in a petition u/s 33 (C)(2) of the ID Act, the Tribunal is only empowered to compute the amount but cannot confer a new right on the workman like interest. Similar view has been taken in the case of Union of India vs. Presiding Officer CGIT in 1984 AISLJ 567 and by the Hon'ble High Court of Delhi in the case of King Airways vs. Captain Manjit Singh decided in WPC No. 2666 of 2010.

5. Management is directed to pay the amount of Rs. 3,12,639/- within a period of 30 days. If the computed amount of Rs. 3,12,639/- is not made within a period of 30 days hereof, the management shall be liable to pay 6% interest on the full amount from the date of filing this application i.e., 19.04.2022 till realization. An order is, accordingly, passed. File, after completion, be consigned to record room.

Justice Vikas Kunvar Srivastava
Presiding Officer
Retired Judge of High Court of Allahabad
October 17, 2024