

(2020) 02 DEL CK 0448

In the Delhi High Court

Case No : Civil Writ Petition No. 3266 Of 2018

Delhi Development Authority

APPELLANT

Vs

Jamila Through General Secretary, Municipal Employees
Union

RESPONDENT

Date of Decision : 19-02-2020

Acts Referred:

Industrial Disputes Act, 1947 — Section 17

Citation : (2020) 02 DEL CK 0448

Hon'ble Judges : Najmi Waziri, J

Bench : Single Bench

Advocate : Arun Birbal, Sanjay Singh, Ajay Birbal, Rajiv Agarwal, Meghna De,
Liu Gangmei

Final Decision : Disposed Of

Judgement

Najmi Waziri, J

W.P.(C) 3266/2018 & CM APPL. 12875/2018

1. This petition impugns the order of the learned Labour Court dated 10.07.2017 in I.D. No. 75/2012, directing the respondent's regularization of

services which she had rendered from 1984 till the date of her regularization i.e. till the time she attained the age of 60 years and she was asked by

the petitioner to stop coming to work. The impugned order had regularized her services on regular pay scale with retrospective effect as well as with

all retiral benefits. The reason for doing so was that the respondent was taken on the Muster Roll on compassionate grounds, since her husband had

vanished and not appeared for many years; she was appointed in lieu of him. She was treated as a daily rated/casual/muster roll worker and was paid

much less wages than her counterparts, albeit, it was in tandem with the notified

minimum wages at the relevant time. Her services were terminated on 04.05.1994 on the basis of a decision of the DDA.

2. In 1984 a decision was taken by DDA to remove the persons who got banned from the muster roll. Despite the said ban, 84 employees were subsequently employed on the Muster roll. The respondent happened to be one of them. She was removed from service on 04.05.1994 which she impugned. The challenge was upheld by this Court, directing her re-instatement with continuity and payment of 50% back wages.

3. The now impugned order has concluded that the workman having served the petitioner for more than 30 years had every right to be considered as a regular employee and to be paid her benefits in accordance with rules. It has reasoned as under:-

13. Having regard to the ratio of law discussed above authorities, it is clear that Ms. Jamila, claimant herein was also entitled to be regularized from the date of her initial appointment on 01.08.1984. Ms. Jamila has virtually attained 60 years, she can only be given difference in wages/salary to which she was otherwise been entitled' had she been regularized in service in 1984.

14. As a sequel to my discussions made hereinabove, it is held that action of the management in not regularizing services of Ms. Jamila from is held to be illegal and unjustified under the law. It is held that she is entitled for regularization from the date of her appointment, i.e.

01.08.1984 on regular pay scale with retrospective effect as well as all retiral benefits. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

4. What emanates from the preceding discussion is that the DDA took the services of the respondent for more than three decades without any complaint or reservations. She has the benefit of an order passed by this Court on 11.08.2009 directing her to be re-instated in services and to be paid 50% wages with continuity of service. In other words, she was working as a permanent employee. That being the position, she would be entitled to all benefits of a regular employee.

5. The entire amounts due towards the respondent have already been paid through process of recovery and she has already received her post-retiral

benefits. However, the learned counsel for the respondent states that pension has not been granted, in addition to other claims of the respondent.

6. Let pension amount be fixed within a period of six weeks from the date of receipt of a copy of this order. The other monies, if payable, too shall be released to her within the aforesaid period.

7. In the peculiar facts and circumstances, the petition is disposed-off in terms of the above.