

(2006) 12 DEL CK 0141

In the Delhi High Court

Case No : Writ Petition (C) No. 1756 of 2004

Delhi Municipal Workers Union (Regd.)

APPELLANT

Vs

Management of MCD and Another

RESPONDENT

Date of Decision : 12-12-2006

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2006) 12 DEL CK 0141

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : Bankey Bihari, for the Appellant; R. Veena, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—By this writ petition, the petitioner has challenged the validity of award dated 9.10.2002 whereby the Industrial Tribunal-II, Karkardooma Courts, Delhi answered the reference against the petitioners.

2. The petitioners alleged that they were working as Masons, Carpenters, Painters, Fitters etc., and they were being considered as semi-skilled workmen while they were entitled for pay-scale of a skilled workman. The following dispute was referred for adjudication to the Industrial Tribunal:

Whether the workmen (Mason, Carpenter, Painter and Fitters) are entitled for New pay scale i.e. Rs. 950-1400 instead of Rs. 800-1150 and if so, to what relief are they entitled and what directions are necessary in this respect?

3. The Industrial Tribunal after considering the evidence and contentions came to the conclusion that the claim of the workmen was based on revision of pay scale made after Fourth Pay Commission's report. The workmen prior to Fourth Pay Commission were getting pay scale of Rs. 210-270 (old) corresponding to the scale of Rs. 800-1150 (new). This corresponding scale has already been given to the workmen. The workmen cannot claim a higher scale which corresponds to the scale of Rs. 260-400.

4. The workman had raised contention that Masons, Carpenters, Painters, Fitters fall in the category of skilled labour and they were entitled to pay scale of Rs. 260-400 (old) which corresponds to new scale of Rs. 950-1400. The Tribunal rejected this contention holding that there was no reference made in respect of dispute whether Masons, Carpenters, Painters, Fitters fall in the category of skilled labour or not.

5. The award has been challenged on the ground that the Tribunal did not appreciate the dispute and the claim of the petitioners. The petitioners have been working as skilled workers and not as semi-skilled workers and, Therefore, they were entitled to pay-scale of skilled workers in accordance with Fourth Pay Commission pay-scale.

6. A perusal of record would show that there were two posts in each category of Masons, Carpenters, Painters, Fitters while the junior post had the pay scale of Rs. 210-290 (old) and the Senior Post carried the pay scale of Rs. 260-350 (old). A junior post's essential qualifications are a middle pass and three year professional experience, ITI Course mentioned as desirable, the senior post's essential qualifications are ITI course and five years experience. The entry into the senior post was 50% by promotion and 50% by direct recruitment. The petitioners failed to show that they were appointed directly in the senior pay-scale of Rs. 260-350, rather the case is that they were entitled to the scale of Rs. 260-350 since, they were skilled workmen. I consider that this plea of the petitioners is not tenable. Even in the category of skilled workmen, there can be gradation and different scales can be given to junior persons and senior persons. There is no law that every skilled workman is entitled to the same pay-scale. Supreme Court in *State of Haryana and Ors. v. Charanjit Singh and Ors.* 2006 (1) LLJ 431 observed that the doctrine of equal pay for equal work is not an abstract doctrine, not capable of being enforced in Court of Law. The principle of equal pay for equal work applies where work being done is of equal value. The principle of equal pay for equal work has no mechanical application in every case. Article 14 permits reasonable classification based on qualifications or characteristics of persons recruited and grouped together as against those who were left out. In service matters merit or experience can be a proper basis for classification for the purpose of pay in order to promote efficiency in administration. A higher pay scale is also given to avoid stagnation or frustration or to create promotional avenues. Mere fact that a person has not gone through the process of recruitment may itself make a difference. If educational qualifications are different then also the doctrine may have no implication. Even though the person may do the same work their quality of work may differ. A mere nomenclature / designation of a person say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The application of doctrine of equal pay for equal work requires consideration of various dimension of a given job.

7. In view of law laid down by Supreme Court, I consider that the petitioners

have no case. The petitioners before Fourth Pay Commission were getting pay scales of junior level of carpenter mason etc. They do not automatically become entitled to senior level scale, which is a next promotion scale. The Tribunal rightly came to the conclusion that the petitioners have been given scale equivalent to what they were drawing before the implementation of Fourth Pay Commission and they were not entitled for higher pay scale. I find no merits in the writ petition. The writ petition is hereby dismissed.