

(2026) 08 DEL CK 4068

In the Delhi High Court, Principal Bench, New Delhi

Case No : W.P.(C) 1406/2011

Dinesh Kumar

APPELLANT

Vs

Hardayal Municipal Public Library

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Constitution of India — Article 226/227, 14, 16, 226
Industrial Disputes Act, 1947 — Section 33C(2), 11

Citation : (2026) 08 DEL CK 4068

Hon'ble Judges : Amit Mahajan, J

Bench : Single Bench

Advocate : Mr. Jawahar R., L. Gangmei, Ms. Meghna De, Mr. Ishaan Goel & Ms. Nitai Hinduja, Advs., Mr. Samarth Shandilya, Adv.

Final Decision : Dismissed

Judgement

Amit Mahajan, J.

1. The present petition is filed under Article 226/227 of the Constitution of India assailing order dated 07.10.2010 passed by the learned Labour Court whereby the learned Labour Court dismissed the claim application filed by the petitioner.

2. Briefly stated, the petitioner was appointed as a library attendant at the respondent library on 20.01.2007 and was thereafter regularised on 29.03.2007. The respondent library on 20.11.2007 issued Show Cause Notices to certain employees regarding annulment of their appointments which were challenged before this Court in W.P.(C) 6178/2007. This Court *vide* order dated 02.04.2008 disposed of the said petitions while directing the respondent library to set up an impartial enquiry tribunal regarding the appointment of the petitioners in that petition along with similarly placed employees.

3. Pursuant to the above, an inquiry tribunal constituted by the respondent library on 13.05.2008 submitted its report dated 18.06.2008 answering the questions posed to it while making the reference of inquiry as follows:

"14. In the light of the aforesaid legal position, the findings of the Enquiry Officer as contained in the Enquiry Report (Annexure P-6) deserves attention and they are as under:-

39. In view of the above observations and also the depositions that have been recorded and the observations that have been made with respect to the branches I answer the questions posted to me while making the reference of enquiry as follows:-

A. To support the appointment of 799 employees between 1.4.2006 and 11.6.2007 the posts were not there.

B. There was no budgetary provision/ sanction and/ or adequate finance to support the appointments to the extent of appointment made.

C. There was no proper advertisement of post. The applications were not called from the Employment Exchange in accordance with law relating to appointments

D. The advertisements by Suchha on the notice Boards of the Library or its branches was not adequate and sufficient advertisements to comply with the requirement of law.

E. The initial recruitment on daily wages and subsequent alleged regularization was against Article 14 and 16 of the Constitution of India. Such appointments were not in accordance with fair procedure and requirement of law.

F. There was no proper and fair scrutiny of the applications before selections were made for appointments.

G. Extraneous considerations were there in the matter of making the appointments.

H. The mass appointments in the Library between 1.4.2006 and 11.6.2007 are illegal and void in entirety.

I. The mass appointments are liable to be annulled from their inception.

40. Having answered the question as referred a question arises in the mind that the branches, which had opened during the period in question although funds were not there for mass appointments that have been made illegally and without jurisdiction, have functioned and a grant of Rupees thirty lacs had been provided by the MCD towards the opening of new branches and such branches are functioning under the name of the Library even today and the Library has taken the benefit of the services of the staff actually required for such branches in serving the public, should the Library not part with the wages which it should have been paid had the appointments been made according to the constitution of the Library and as per requirement of the particular branch and qualified persons were appointed. **There is no doubt some person amongst those who have been illegally appointed do possess the qualifications required.** The principle of quantum merit certainly directs that the Library must part with such an amount of wages. **The Library should estimate and calculate the actual requirement of the staff in a particular branch and the salary ought to have been paid if the necessary and qualified staff had been there.** Those who have actually worked although my inspection incognito indicates that only few worked and most of them were actually not present must be compensated. **There is no doubt surplus staff on the roll was more than what the requirement was in fact. The Library should distribute equally to all such employees who according to the finding of an independent committee constituted from amongst the staff actually and sincerely attended.** If the wages so saved after deducting the wages paid to regular staff is less than a month's salary for such employees, the Library and the MCD should be benevolent to add extra amount to such sum so that sincere employee do get

one month's salary for cessation of employment in addition to what is suggested further hereinafter.

41. Further while parting with this report I consider it appropriate to recommend although for the vacancies which are estimated for such branches which were opened during the period in question, the fresh appointments are to be made in accordance with Article 14 and 16 of the Constitution yet 20% and 25% of such vacancies may be reserved for such employees provided they possess the qualifications as are required for the staff or a Library of the Standard of Hardyal Library or the qualifications as may be prescribed for the posts in the open recruitment. Such an approach would be in accordance with the principle of fair play in action. The Library will lay down reasonable criteria so that merit and professionally qualified candidates who have acquired experience of the Library and/or those who have acquired professional qualifications during the intervening period get opportunity to work and experience acquired in the Library does not go waste at least of the candidates who have merit and the professional qualifications."

4. The respondent Library accepted the findings of the Inquiry Tribunal in their entirety and, by order dated 11.09.2009, annulled the appointments of all employees appointed between 01.04.2006 and 11.06.2007, including that of the petitioner, with effect from their inception. The said order was directed to be given effect after the expiry of two weeks from 11.09.2009 in terms of the order dated 06.07.2009 passed by this Court in W.P.(C) No. 9786/2009.

5. The order dated 11.09.2009 was thereafter challenged by certain employees of the respondent Library in W.P.(C) No. 11907/2009. The said writ petition came to be dismissed by a Coordinate Bench of this Court by detailed judgment dated 25.09.2009. The Coordinate bench of this Court observed that the Inquiry Report, which had been accepted in *toto* by the respondent Library, was a self-contained and reasoned report and did not suffer from any violation of the principles of natural justice. The claim of the employees for arrears of salary and subsistence allowance was also rejected, it was held that once the appointments had validly been annulled by order dated 11.09.2009, no such relief could be granted.

6. It was further directed that the respondent Library implement the remedial measures suggested in paragraphs 40 and 41 of the Inquiry Report and place a compliance report in that regard before the Court.

7. The aforesaid judgment was carried in appeal by way of LPA No. 549/2009. It was urged on behalf of the appellants that their services had been terminated without following the procedure established by law and that their right to challenge the termination before an appropriate forum could not be curtailed. The Division Bench, however, dismissed the appeal *vide* order dated 30.10.2009, holding that the appellants, having unsuccessfully challenged the annulment of their appointments before this Court, could not be permitted to re-agitate the validity of the same before another forum. The challenge was carried further by way of a Special Leave Petition, which also came to be dismissed by the Hon'ble Supreme Court on 22.02.2010.

8. In the meantime, the petitioner instituted an application under Section 33C(2) of the Industrial Disputes Act, 1947 before the learned Labour Court on 08.02.2010 claiming unpaid wages for the period from 01.04.2007 to 25.09.2009. The respondent, in turn, filed an application under Section 11 of the Industrial Disputes Act seeking rejection of the claim petition. The learned Labour Court framed a preliminary issue with regard to the maintainability of the petitioner's application.

9. Relying upon the judgment of the Coordinate Bench of this Court in W.P.(C) No. 11907/2009, as affirmed by the Division Bench in LPA No. 549/2009, the learned Labour Court dismissed the petitioner's claim petition as not maintainable. It was observed that notwithstanding the petitioner's plea that he was not a party to the earlier proceedings, the decisions rendered therein pertained to the validity of the appointments made between 01.04.2006 and 11.06.2007, of which the petitioner was admittedly one. The learned Labour Court, therefore, held that the petitioner was bound by the aforesaid judgments and could not maintain a claim founded upon an appointment which had already been declared void and annulled from its inception.

10. Aggrieved thereby, the present petition has been filed.

11. Learned counsel appearing for the petitioner submits that the learned Labour Court has erred in dismissing the petitioner's claim petition as not maintainable. He submits that the petitioner remained in the employment of the respondent Library from 20.01.2007 till 25.09.2009, when his services came to be annulled, and was paid wages only up to 31.03.2007. He submits that the petitioner is entitled to payment of his earned wages for the period from 01.04.2007 to 25.09.2009.

12. He further submits that while upholding the findings of the Inquiry Tribunal and the consequential annulment of the appointments of similarly situated employees, the Coordinate Bench of this Court had specifically directed the respondent Library to implement the remedial measures recommended in paragraphs 40 and 41 of the Inquiry Report. He submits that the said recommendations recognised the principle of *quantum meruit* and envisaged compensation to those employees who had actually and sincerely rendered services to the respondent, notwithstanding the illegality in their appointments.

13. *Per contra*, learned counsel appearing for the respondent supports the impugned order and submits that it is well reasoned and warrants no interference under Article 226 of the Constitution of India.

14. He submits that the Coordinate Bench of this Court, while upholding the order annulling the appointments of the employees of the respondent Library, has already held that such employees are not entitled to claim arrears of salary. The said view, it is submitted, was affirmed by the Division Bench in appeal and thereafter by the Supreme Court.

15. He further submits that, in compliance with the directions issued by the Coordinate Bench, the respondent Library constituted a nine-member committee to identify those employees who had actually and sincerely discharged their duties and possessed the requisite qualifications, so as to extend to them the benefit contemplated in paragraph 40 of the Inquiry Report.

16. He produced a compliance report before this Court which had been submitted to the Coordinate bench of this Court. He submits that the petitioner's name does not find place in the list of employees found eligible for the aforesaid benefit. Compliance report is taken on record.

17. Having heard learned counsel for the parties and perused the material placed on record, this Court finds no merit in the present petition.

18. At the very outset, it is necessary to note that the validity of the annulment of the appointments of the employees of the respondent Library, including those appointed during the period between 01.04.2006 and 11.06.2007, is already settled. The Inquiry Report dated 18.06.2008, on the basis of which the appointments were annulled, was specifically upheld by a Coordinate Bench of this Court while dismissing the challenge to the order dated 11.09.2009 annulling the appointments. The said judgment was thereafter affirmed by the Division Bench in LPA No. 549/2009, and the challenge carried to the Supreme Court also came to be dismissed.

19. Significantly, while upholding the order of annulment, the Coordinate Bench also considered the claim of the concerned employees for arrears of salary and subsistence allowance and unequivocally rejected the same. The relevant observations in the order dated 25.09.2009 are reproduced below:

18. The prayer of the petitioners for the arrears of salary or for grant of subsistence allowance cannot be accede to, for the reason that the appointments in question have been rightly annulled by the respondent-Library by impugned Order (Annexure P-11.) The impugned Order does not suffer from any material illegality or infirmity. Both these petitions are without any merit and are dismissed in limine. Pending applications are also disposed of as infructuous.

20. The learned Labour Court rightly placed reliance upon the aforesaid judgments while holding that the petitioner's claim was not maintainable.

21. Though the petitioner contends that he was not a party to the earlier writ proceedings, the same is immaterial. The earlier proceedings were not confined to the individual rights of the petitioners therein but concerned the legality of the mass appointments made by the respondent Library during the relevant period and the consequences flowing therefrom.

22. Admittedly, the petitioner belongs to the very same class of employees whose appointments stood annulled pursuant to the Inquiry Report. Once this Court had held that employees whose appointments stood annulled were not entitled to arrears of salary, the petitioner could not seek to reagitate the very

same claim by instituting proceedings under Section 33C(2) of the Industrial Disputes Act, 1947.

23. The petitioner has also sought to contend that the respondent Library failed to implement the remedial measures contemplated in paragraphs 40 and 41 of the Inquiry Report, as directed by the Coordinate Bench of this Court. This contention also does not merit acceptance.

24. The Learned counsel for the respondent has produced the compliance report prepared by the nine member committee constituted pursuant to the directions of the Coordinate bench of this Court, before this Court. A perusal thereof shows that the petitioner's name does not figure amongst those employees who were found to have actually and sincerely discharged their duties and were, therefore, considered eligible for the limited benefit contemplated under paragraph 40 of the Inquiry Report.

25. Though learned counsel for the petitioner submits that the petitioner had no knowledge of the said compliance report, the same was undisputedly filed before the Coordinate bench of this Court, pursuant to its directions and has remained on record since then.

26. In the absence of any material to demonstrate that the compliance report is incorrect, incomplete or was prepared in violation of the directions issued by this Court, there is no reason to disbelieve or disregard the same merely on the basis of the petitioner's assertion. Significantly, the petitioner has not laid any independent challenge either to the constitution of the committee or to the findings recorded in the compliance report.

27. In these circumstances, this Court is of the considered view that the learned Labour Court committed no error in dismissing the petitioner's application under Section 33C(2) of the Industrial Disputes Act as not maintainable. Thus, no ground for interference under Article 226 of the Constitution is made out in the present petition.

28. Accordingly, the present petition is dismissed.

29. Pending applications (if any), also stand disposed of.