
(2003) 10 DEL CK 0049
In the Delhi High Court
Case No : CW 4855 of 2002

M.C.D.

APPELLANT

Vs

Nathu Ram and Another

RESPONDENT

Date of Decision : 30-10-2003

Acts Referred:

Citation : (2004) 73 DRJ 718 : (2004) 2 SLJ 367

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Amita Gupta, for the Appellant; Sanjay Ghose and Pragnya, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule.

2. With the consent of the counsel for the parties, the matter is taken up today for final hearing.

3. This writ petition challenges the impugned Award 21st September, 2001 which does not grant regularization to the post of Garden Chaudhary to the respondent No. 1/workman and on the basis of the documents produced, it has only been held that the respondent No. 1/workman performed the work of Garden Chaudhary and hence accordingly entitled to be paid the wages of Garden Chaudhary for the period with effect from 1st October, 1983 till his promotion.

4. The relevant finding on this issue is to be found in Para 9 of the award which reads as follows:-

"On perusal of Ex.WW1/25 it is revealed that the name of workman is against the column of name of Garden Choudhary and it has separately a list of Beldar and Mali. The other documents Ex.WW1/7, Ex.WW1/9, Ex.WW1/10 (two) i.e. (D 10 and D11), Ex.WW1/12, Ex.WW1/14, Ex.WW1/15, Ex.WW1/17, Ex.WW1/18, Ex.WW1/19, Ex.WW1/21, Ex.WW1/24, Ex.WW1/25, Ex.WW1/27 and Ex.WW1/28

are showing that the workman was assigned the job of Garden Choudhary. Therefore, the workman has established that he has been performing the job of Garden Choudhary."

5. Apart from the above findings, based on documentary evidence, the learned counsel for respondent No. 1 has relied upon the petitioner management's written statement in response to the statement of claim filed by the workman, respondent No. 1 herein before the Labour Court wherein the following pleas have been taken by the MCD:-"2. That the contents of para 2 is wrong and denied.

(i) That the content of sub para No. (i) is wrong and denied. The employees has never been asked to work at the post of Garden Choudhary. However, he has been assigned this work in addition to his own duties,

(ii) That the contents of sub para No. (ii).

The applicant has passed the trade test but he will be promoted as per seniority list and availability of post.

(iii) That the contents of sub para No. (iii) is admitted that the workman is looking after the job of Garden Choudhary in addition to his own duties."

Thus it is demonstrated that the MCD has admitted the passing of the trade test for the post of Garden Chaudhary by the respondent No. 1/workman and the fact that he was additionally looking after the job of Garden Chaudhary.

6. In view of the above pleading which admits the case set up by the respondent No. 1 in so far as it pertains to the payment of emoluments of a Garden Chaudhary due to the work done by the respondent No. 1 and the documents relied upon by the Tribunal, the mere granting of emoluments for the post of Garden Chaudhary to the respondent No. 1 cannot be faulted and the award, Therefore, cannot be interfered with and the writ petition is dismissed accordingly.