
(2009) 09 DEL CK 0221

In the Delhi High Court

Case No : Writ Petition (C) No. 11078 of 2005

New Delhi Municipal Council

APPELLANT

Vs

Om Prakash Sethi

RESPONDENT

Date of Decision : 18-09-2009

Acts Referred:

Citation : (2009) 09 DEL CK 0221

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

Bench : Single Bench

Advocate : Nitin Dahiya, for the Appellant; Ashok Mahajan, for the Respondent

Judgement

S.N. Aggarwal, J.—The New Delhi Municipal Council (the petitioner herein) seeks to challenge an order dated 16.10.2004 in LCA No.

67/2001 awarding an amount of Rs. 62,006/- with interest @ 6% per annum from the date of filing of the claim application till realization in favour

of the respondent workman. The split up of the award amount awarded in favour of the respondent workman is as under:

(i) Leave encashment of 240 days amounting to Rs. 40,736 @ Rs. 5092/- per month.

(ii) Rs. 450/- on account of reimbursement of medical leave for the period from 25.08.1967 to 15.10.1967.

(iii) Rs. 20,700/- on account of bonus for the period between 01.04.1982 to 31.03.1991.

2. The respondent was in the service of the petitioner. His services were terminated w.e.f. 27.01.1968. He challenged his termination after 10

years in 1978. The reference on the dispute so raised by the respondent was made by the Government to the Labour Court in 1978. The Labour

Court vide its award dated 06.11.1995 decided the reference in favour of the respondent workman and directed his reinstatement. Since the

respondent workman had already attained the age of superannuation on 31.03.1991 prior to passing of the award in his favour, directions were

given for payment of wages between the date of reference i.e. 19.08.1978 till the date on which he reached the age of superannuation i.e.

31.03.1991. It was specifically mentioned in the award dated 06.11.2005 that the respondent workman will not be entitled to any other benefits.

The award passed by the Labour Court in favour of the respondent workman was tested up to the Hon"ble Supreme Court but without any

success. However, the Supreme Court while dismissing the SLP filed by the management being SLP(C) No. 39/2000 vide order dated

24.04.2000 took note of the fact that the respondent workman had made a demand of Rs. 4 lacs from the petitioner in terms of the award in his

favour which has been paid to him as admitted by the workman in his counter affidavit filed before the Supreme Court. It is after the dismissal of

the SLP of the management by the Supreme Court, the respondent workman filed an application u/s 33(C)(2) being LCA No. 67/2001 and

claimed the payment on account of leave encashment, medical reimbursement, bonus and security deposit. The security deposit has not been

allowed by the Labour Court whereas other three claims made u/s 33(C)(2) have been granted vide order impugned in the present writ petition.

3. Mr. Nitin Dahiya learned Counsel appearing on behalf of the petitioner contends that the relief of leave encashment and bonus that have been

granted by the Labour Court in favour of the respondent workman is contrary to the terms of the industrial award in his favour that has been tested

up to the Hon"ble Supreme Court. Mr. Ashok Mahajan learned Counsel appearing on behalf of the respondent workman says that denial of other

reliefs/claims in the industrial award to the workman were reliefs relating to increment, promotion and seniority but according to him, since the

respondent was held entitled for reinstatement/back wages till the date of his superannuation, he was also entitled have the to benefit of leave

encashment and bonus for the period between the date of his termination and the date on which he had reached the age of superannuation. On

giving my anxious consideration to this argument advanced on behalf of the respondent workman, I could not persuade myself to agree with him.

The respondent is not entitled either for leave encashment or for bonus during the period between the date of his termination and the date of his

superannuation because the industrial award in his favour does not grant him consequential benefits. What has been awarded to him in the industrial

award is only the relief of reinstatement/back wages from the date of his termination and the date of his superannuation. He was specifically denied

all other benefits which he otherwise would have got had his reimbursement was with consequential benefits. I am supported in my view by a

judgment of the Hon"ble Supreme Court in Rajasthan State Road Transport Corporation and Others Vs. Shyam Bihari Lal Gupta, wherein the

Hon"ble Supreme Court relying upon its two earlier judgments in Rajasthan S.R.T.C. and Another Vs. Ladulal Mali, and A.P.S.R.T.C. and

Another Vs. S. Narsagoud, has held that a workman unless he is granted the consequential benefits consequent upon his reinstatement, is not

entitled to any other benefit.

4. In the impugned order one of the items of claim granted by the Labour Court in favour of the respondent workman is claim of Rs. 450/- on

account of medical leave encashment and since that claim pertain to the period from 25.08.1967 to 15.10.1967 during which the respondent

workman was in the employment of the petitioner, the order to that extent cannot be faulted with. The workman is entitled to this claim of Rs.

450/- on account of medical leave encashment.

5. The impugned award in so far as it grants benefit of leave encashment and bonus to the respondent workman for the period between the date of

his termination and the date of his superannuation is concerned, the same is contrary to the terms of the industrial award in his favour. The

impugned order to that extent is, therefore, set aside.

6. For the foregoing reasons, this writ petition is partly allowed and the impugned order in so far as it relates to grant of claim of leave encashment

in the sum of Rs. 40,736/- and claim of Rs. 20,900/- on account of bonus is concerned, the same is hereby set aside. The parties are left to bear

their own costs.

This writ petition is disposed of in terms referred above.