

(2000) 01 DEL CK 0091

In the Delhi High Court

Case No : Civil Writ Petition No. 6899 of 1999 and CM. 13110 of 1999

N.S. Ravindran and Another

APPELLANT

Vs

Delhi Development Authority

RESPONDENT

Date of Decision : 12-01-2000

Acts Referred:

Citation : (2000) 3 AD 210

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. S.M. Garg, for the Appellant; Ms. Anusuya Salwan, for the Respondent

Judgement

A.K. Sikri, J.—Rule.

Since short question is involved with the consent of the parties the matter is taken up today and disposed of at this stage.

2. Petitioners admittedly were working as work charge employees with DDA. By mutual agreement between DDA and MCD services of certain colonies were transferred from DDA to MCD Along with staff charged to these colonies. As a result thereof the service of all these employees including the petitioners were transferred to MCD. Petitioners have filed this writ petition challenging their transfer to MCD. It is contended that the petitioners are not working in this scheme which are transferred to MCD and Therefore the petitioners are not liable for such transfer. It is also contended that even if the staff deputed on the scheme to be transferred is found in excess than the officials who rank senior in that category are to be retained and only junior most persons are to be transferred. Likewise in case of shortfall the same is to be made out from the overall seniority under each category and the person who rank junior most only are to be transferred. In the counter affidavit filed by the respondent it is stated that all the employees, without any exception, who were working in this scheme have since been transferred and Therefore as the petitioners were work charged

employees for the said scheme and the scheme is no more available with the DDA, the question of retaining these petitioners with the DDA does not arise. Infact the only alternative could be to dispense with the services of the petitioners after the scheme with DDA was over and reliance was placed in the judgment of Supreme Court reported in AIR 199 SC 1445. The respondents have further clarified the position in the additional affidavit dated 23rd December, 1999 by stating as under :-

"That vide E.O. No. 8 dated 11.2.99 the services of 45 colonies under 5th lot were handed over by the DDA to the MCD. Shri N.S. Ravindran, Beldar was charged to the scheme known as construction of 512 LCH at Hastal Block "C". All beldars were being charged in the said scheme were transferred to MCD. Shri Vijay Kumar was charged to the scheme known as Choti Subzi Mandi at Janakpuri. The said scheme was transferred and he Along with the staff working were transferred to MCD. Details of the persons on the said schemes are as per Annexure marked RI".

3. In view of the above position there is no merit in the writ petition and the same is accordingly dismissed.

4. Mr. Garg appearing on behalf of the petitioner further states that since June 1999 the petitioners have not been paid their salaries. On the other hand, it is contended by Ms. Anusuya, Salwan, appearing on behalf of DDA that the petitioners were directed to report for duty to Dy. Commissioner (Engineering) MCD, Town Hall, Delhi by Establishment Order No. 272 dated 2nd June, 1999 and Therefore there is no question of payment of salary to the petitioner by DDA after the said date. This is however submitted by Mr. Garg that inspire of the said order petitioners were not relieved by the officer under whom they were working and they continued to work there even after issuance of Establishment Order dated 2nd June, 1999. Since disputed questions of fact are involved so far as entitlement of the petitioners to salary from the DDA from June 1999, the petitioners may agitate their entitlement to receive the salary by filing appropriate proceedings before the Labour Court/Payment of Wages Authority. With the aforesaid observations the writ petition is otherwise dismissed.