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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 25.07.2025***

+ W.P.(C) 14646/2022

SMT SHASHI

....Petitioner

Through: Ms. Meghna De and Ms. Surbhi
Bagra, Advocates.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Manu Chaturvedi, Standing
Counsel for MCD.
Mr. Abhinav Singh and Mr. Rishabh
Yadav, Advocates for R-2.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Petition has been filed under Articles 226 and 227 of the Constitution of India seeking to challenge the Award dated 09.05.2022 passed by the learned Presiding Officer, Labour Court-IV, Rouse Avenue Courts, New Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award a No Dispute Award has been passed.

2. The limited issue for challenge that has been raised by the learned Counsel for the Petitioner/Workman is that no service was effected upon the Petitioner/Workman, as a result of which he was unable to appear and a No Dispute Award was passed.



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3. The Petitioner/Workman filed a Statement of Claim against the Respondent/Management alleging that Workman i.e. Shri Man Pal (now deceased) was illegally terminated from services by the Respondent/Management w.e.f. 26.11.1990. Learned Counsel for the Petitioner/Workman submits that an order dated 15.09.2021, was passed by the Competent Authority which sets out the Terms of Reference for adjudication of the complaint of the Petitioner and thereafter the matter was referred to the appropriate Labour Court (Central Govt. Industrial Tribunal).

4. Learned Counsel for the Petitioner/Workman submits that the Petitioner/Workman was not aware of the Terms of Reference since no Notice was received by the Workman of the Reference. She further submits that the proceedings were instituted before the learned Labour Court instead of Industrial Tribunal-II as was set out in the Reference Order. Reliance is placed on the Reference Order dated 15.09.2021 which is extracted below:

“ORDER

.....Therefore, in exercise of powers conferred by Section 10 (1) (c) and 12 (5) of the said Act read with Govt. of India, Ministry of Labour Notification No.s-11011/2/75/DK(IA) dated the 14th April 1975 and Notification on No. F.1/31/616/Estt./2008/7458 dated 3rd March, 2009, I, K.M Singh, Dy. Labour Commissioner, Govt. of National Capital Territory of Delhi, hereby, refer the dispute to the Labour Court No.XIX, for adjudication on the terms of reference mentioned in the schedule.

SCHEDULE
TERMS OF REFERENCE

1. *“Whether the demand of the Smt. Shashi W/o Lt. Man Pal for regularization of services of Lt. Man Pal (now deceased) on the post of Beldar from the initial date of joining is legal and justified, and if so to what monetary relief is she entitled and what directions are necessary in this respect?”*
2. *“Whether the demand of the Smt. Shashi W/o Lt. Man Pal for*



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appointment on compassionate **ground from the date of death of his Husband Lt. Man Pal on any suitable post on regular and permanent basis in proper pay scale with all consequential benefits is legal and justified and what directions are necessary in this respect?**

(K.M Singh)

Dy. Labour Commissioner

Dated: 15.09.2021

No. F.24(71)/Lab/E/20146124

Copy to:-

1. Sh. Shashi w/o Lt. Man Pal (now deceased) about 44 years, R/o Village Kurri, Tehsil lastly Baraut, Distt. Baghpat, U.P-250617, and his husband worked as Beldar in Horticulture Department, lastly posted in Shahdara North Zone, Delhi through General Secretary, Municipal Employees Union, Aggarwal Bhawan, G.T Road, Tis Hazari, Delhi-110054, (Workman) with the directions to file statement of claim with the relevant documents and list of witness in the Labour Court mentioned above within 15 days and also to serve a copy of the statement of claim on all the parties involved.
2. M/s. East Delhi Municipal Corporation through its Commissioner (East), Udyog Sadan, 2nd Floor, Plot No. 419, Patparganj Industrial Area, Delhi-110092 (Management)
3. **The Presiding Officer, Industrial Tribunal-II, Room No.412, IVth Floor Rouse Avenue Court Complex, New Delhi.**
4. ALC/Conciliation Officer.

(Som Dutt Sharma)

Assistant Labour Commissioner”

[Emphasis supplied]

5. Learned Counsel for the Petitioner/Workman further contends that there is a finding in the Impugned Award that the Petitioner/Workman failed to file a Statement of Claim despite being given repeated and ample opportunities and that none has appeared on his behalf either. However, she submits that the service report of the process server [which is annexed as Annexure P-6 in the case file] shows that no service was ever effected on the Workman.

6. Learned Counsel for the Respondent concurs with the submission of



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the learned Counsel for the Petitioner/Workman to the extent that these terms of reference were to be decided by the Industrial Tribunal and not by the learned Labour Court.

7. The record reflects that notice was issued on 21.12.2021 to the Petitioner/Workman as well as through his union with a direction to the process server to serve the notice physically upon the workman as well as through his union by the learned Labour Court.

7.1 The Report of the Process Server dated 14.01.2022 reflects that the notice issued by the learned Labour Court was not served on the Petitioner. It states that since the COVID pandemic was on, the service could not be effected physically and there was no telephone number available, so summons could not be served through WhatsApp or E-mail either. The noting of the Process Server is extracted below:

“Sir

Due to the spread of corona pandemic and physical closure as per ACJ RADC Delhi's order circular- 879-926-C/ACJ/RADC/2021, the applicant could not go to the spot and due to non-availability of WhatsApp number on the summon, the summon could not be served through email. Report is presented.”

[Emphasis supplied]

8. Concededly thus, the service was not effected on the Petitioner/Workman primarily on account of pendency of the COVID pandemic and thus the Petitioner/Workman had no knowledge of the Reference Order or the proceedings before the Labour Court. It is not disputed that the Petitioner/Workman filed a Statement of Claim before the Conciliation Officer in November, 2018 and the Terms of Reference/Order



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dated 15.09.2021 directed the adjudication of the dispute raised by the Petitioner/Workman. The record also reflects that the terms of reference although to be decided by the learned Presiding Officer, Industrial Tribunal, they were instead adjudicated *ex parte* by the learned Labour Court.

9. In view of the foregoing discussions, it is clear that the adjudication of the Statement of Claim of the Petitioner/Workman was not undertaken on account of the fact that service was not effected on the Petitioner/Workman.

10. The Petition is accordingly allowed. The parties shall appear before the learned Presiding Officer, Industrial Tribunal-II, Rouse Avenue Courts Complex, New Delhi on 26.08.2025 for *de novo* proceedings.

11. Given the pendency of the dispute, the Industrial Tribunal is requested to adjudicate the matter as expeditiously as possible.

11.1 Learned Counsel for the parties submit that no unnecessary adjournments shall be taken by the parties before the learned Industrial Tribunal. The parties are bound down by the statement made by their Counsel.

12. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 25, 2025/pa