



2026:DHC:8044



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 18th September, 2026

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CNR No. DLHC011306752013

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W.P.(C) 5666/2013**DEVINDER KUMAR & ORS****.....Petitioners**

Through: Mr. Lakshay Gupta,
Mr. Harendra Kumar Ray,
Mr. Abhay Rai Singh and
Mr. Pradeep Kumar, Advocates.

versus**MUNICIPAL CORPORATION OF DELHIRespondent**

Through: Mr. Arun Birbal, Mr. Sanjay
Singh and Ms. Nidhi Sharma,
Advocates.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed assailing the impugned award dated 08.03.2013, passed by the learned Presiding Officer, Industrial Tribunal, in I.D. No. 174/2010, whereby the claim of the Petitioners/Workmen was dismissed and the termination of his services were held legal and justified.

2. A perusal of the record reveals that the Petitioners were engaged as *Beldars* with the management w.e.f. 20.12.2000 as daily wagers. Show Cause Notice was issued to the Petitioners alleging that when they were deployed at Sainik Farm area, to check inflow of building material, some demolished properties got re-constructed. They furnished their respective replies denying their involvement in the same, however, undisputedly, without holding any formal domestic enquiry or issuing any charge sheet or affording any



opportunity to defend their case, the services of the Petitioners were terminated *vide* Order dated 25.10.2007.

3. It emerges that the learned Tribunal, *vide* the impugned award, while considering the issue of illegal termination, observed that in lieu of Section 2(oo) of the Industrial Disputes Act, 1947 no case of *retrenchment* or violation of 25F, G and H is made out, as the termination of services of the Petitioners was as a punishment/disciplinary action. It was further observed that since the Petitioners were admittedly daily wagers they cannot claim application of principles of natural justice in the shape of domestic enquiry.

4. In the opinion of this Court, the same warrants interference. Despite furnishing replies to the Show Cause Notices and categorically denying the allegations mentioned therein, the services of the Petitioners have been terminated without giving them any opportunity to lead evidence or defend their case.

5. Even if it is accepted that the termination was a consequence of “*disciplinary action*”, and not *retrenchment*, there is no scintilla of doubt in the settled proposition of law that in case the termination order is by way of penalty, the same cannot survive in the absence of any departmental enquiry. Reference in this regard may be made to decision of the Hon’ble Apex Court in the case of ***M.C.D. v. Praveen Kumar Jain* : (1998) 9 SCC 468**. The said case pertained to a workman who was working as a non-technical staff on muster roll as a daily wager. In the said case, the discharge order was passed after holding a preliminary inquiry on the allegation that the workman



therein had committed misconduct by persuading his fellow workman to interpolate his name in the list of employees recommended for regularization in service. Consequently, the services of the workman therein were held to be no longer required. On a challenge, the Labour Court had directed reinstatement. Upon a challenge to the Hon'ble Apex Court thereafter, it was observed that the termination order was not passed after a departmental enquiry but by a simple discharge. The management later took the stand that the termination was by way of penalty. On a conspectus of such facts, the Hon'ble Apex Court noted that if the termination is by way of penalty, then a regular departmental enquiry is required to be conducted. It was further noted that the management ought to have appointed an inquiry officer and the report ought to have resulted in an adverse finding against the respondent which would also need to be accepted by the disciplinary authority.

6. It is also a well-crystallized principle of service law that once an order carries a stigma, an opportunity has to be given to the employee before passing such an order. Even if the order appears routine, the Court is required to look behind the order and ascertain whether misconduct was the foundation for passing it. If so, the order would be stigmatic and could not have been passed without affording an opportunity to the employee. For this reason, even if the employee is granted a temporary status and the order of termination is stigmatic/punitive, then a departmental enquiry has to precede the order of termination.

7. Though reliance has been placed by the respondent on the



judgment passed by the Hon'ble Supreme Court in ***Engineering Laghu Udyog Employees Union v. The Judge, Labour Court and Industrial Tribunal and Anr.: 2003 (6) SCR 253***, the same is highly misplaced. The Hon'ble Supreme Court, taking note of the peculiar facts of that case, had observed that in certain contingencies an employer may, in a case of grave nature of *misconduct*, dismiss a workman without holding an enquiry, but ordinarily such an enquiry should not be dispensed with. It was also held that in such a case, the employer can prove the misconduct by leading evidence before the learned Tribunal.

8. The above judgment does not bolster the case of the Respondent, as; firstly, it stands recorded in the impugned award, that the management has not led any evidence. The only evidence that has been brought before the learned Tribunal is the show cause notice and the replies given. The learned Tribunal, noting that the petitioners were admittedly deployed at the entry points of Sainik Farm Area and some demolished properties were reconstructed, held that there is evidence to show dereliction of duty by the workmen.

9. In the opinion of this Court, merely because the Petitioners were engaged as guards and were performing watch and ward duties, they cannot be held solely or directly responsible for any unauthorised construction that may have taken place, when there is no direct or live link/connection established between the act and the presence of the petitioners. There is nothing placed forth to show their active involvement or connivance in illegal activities of re-construction. Further, as regards the enduring problem of illegal constructions, this



Court also cannot turn a blind eye to the possibility that the officials of municipal authorities might have attempted to fasten the blame on the workmen to escape their liability, as no unauthorized/illegal construction could have taken place without connivance of officials of municipal authorities.

10. Hence, the findings of the termination being legal and justified are set-aside.

11. The next aspect that arises for consideration is the nature and extent of relief to be granted. It is no more *res-integra* that the finding of illegality of termination does not make reinstatement with back wages automatic.

12. The matter pertains to allegations about 2 decades old and the termination order was also passed in the 2007. Though the alleged misconduct of the petitioners has not been tested before any forum, no useful purpose would be served by relegating the parties to lead fresh evidence and prolonging the litigation further.

13. Since the Petitioner were daily-wagers and considering the long lapse of time since the termination, in the opinion of this Court, the ends of justice would be served by awarding lump sum compensation of ₹3,00,000/- to each of the Petitioners. The same shall be paid within a period of 8 weeks from date by the Respondent.

14. Accordingly, the writ petition stands disposed of in the aforesaid terms, along with pending application(s), if any.

AMIT MAHAJAN, J

SEPTEMBER 18, 2026 / DU