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

% *Date of Decision: 14.01.2025*

+ **W.P.(C) 5204/2022**

SMT. GEETA & ORS.

.....Petitioners

Through: Mr. Mahesh Srivastava, Advocate.

versus

RAJKIYA SARVODAYA KANYA VIDYALAYA AND ANR.

.....Respondents

Through: Ms. Aliza Alam, Advocate.

**CORAM: JUSTICE GIRISH KATHPALIA**

**J U D G M E N T (ORAL)**

1. The petitioners workmen raised Industrial Dispute on which the following Reference was issued to the Industrial Tribunal for adjudication:

*“Whether demand for regularization of Smt. Geeta w/o. Shri Rajesh & 3 others (as mentioned in Annexure-A) on the post of Aya/House Keeping in the proper pay scale along with all benefits as per Sixth pay commission is justified; and if so, what directions are necessary in this respect?”*

2. By way of the impugned award dated 28.05.2019, the Industrial Tribunal, Rouse Avenue Court, New Delhi answered the Reference against the workmen on the ground that no evidence was led by them.

3. On service of notice, the respondents entered appearance through



counsel. However, subsequently respondent no.2 stopped participating and was proceeded ex-parte vide order dated 22.09.2023 of the predecessor bench. I have heard counsel for petitioners as well as for respondent no.1.

4. Learned counsel for petitioners contends that the impugned award is not sustainable in the eyes of law as no fair opportunity to present their case was granted to the petitioners. On the other hand, learned counsel for respondent no.1 supports the impugned award.

5. Perusal of the digitized record of the trial court shows that contention of learned counsel for petitioners is certainly correct. I am in complete agreement with learned counsel for petitioners that petitioners were not granted fair opportunity to adduce evidence. As reflected from the trial court record, upon completion of pleadings, issues were framed by the Tribunal on 22.01.2019 and matter was posted for trial on 28.05.2019. On 28.05.2019, the Tribunal observed that none of the workmen was present (*though authorised representative of workmen was marked present*) and no evidence affidavit had been filed by them. Observing that, the Tribunal closed workmen evidence and further proceeded to close evidence of management also. Not just this, the Tribunal heard the final arguments on the same day and passed the impugned award.

6. It would also be significant to note that on 22.01.2019, before framing the issues, the Tribunal also took up application under Section



11(3)(b) of the Industrial Disputes Act filed by the workmen for directions to the present respondent no.2 to produce their employment record. Despite the said record having been disclosed in the form specific documents related to employment of the workmen, the Tribunal held that production/non production thereof would be considered at the time of final adjudication. But on the very next date, the Tribunal passed the impugned order against the workmen.

7. In view of above circumstances, I am unable to uphold the impugned award, so the same is set aside and the petition is allowed.

8. The matter is remanded to the Industrial Tribunal where both sides shall appear on 21.01.2025. In view of above circumstances, it is directed that on 21.01.2025, the learned Tribunal shall issue Court notice to parties and fix a fresh date(s) for recording evidence and thereafter, the Tribunal shall dispose of the dispute within six months.

9. In order to ensure compliance, learned counsel for petitioners is also requested to transmit a copy of this order to counsel for respondent no.2 within three days.

**GIRISH  
KATHPALIA**

Digitally signed by GIRISH KATHPALIA  
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**GIRISH KATHPALIA  
(JUDGE)**

**JANUARY 14, 2025/ry**