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

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**Judgment reserved on: 16.02.2026****Judgment delivered on: 02.04.2026**+ **LPA 1101/2024****SHRI MOHKAM SINGH**

.....Appellant

Through: Mr. Jawahar Raja and Ms. Meghna De, Ms. L. Gangnei, Ms. Aditi Saraswat, Mr. Nitai Hendiya, Mr. Siddharth Sapra, Mr. Ishaan Goel, Advs.

versus

**DELHI JAL BOARD**

.....Respondent

Through: Ms. Kanika Agnihotri, Standing Counsel.

**CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****J U D G M E N T****DEVENDRA KUMAR UPADHYAYA, C.J.**

1. This *intra-court* appeal instituted under Clause X of the letters patent assails the judgment and order dated 31.05.2024, passed by learned Single Judge dismissing the *W.P.(C) 12253/2009* which was instituted by the appellant/petitioner, challenging the award dated 19.09.2008 passed by the Presiding Officer, Industrial Tribunal-II, Karkardooma Courts, Delhi.



2026:DHC:2757-DB



2. At this juncture itself we may note that by the award dated 19.09.2008 the learned Industrial Tribunal had rejected the claim of the appellant/petitioner for regularisation of his services on the post of *Baildar* with the respondent-Delhi Jal Board and accordingly, the reference dated 08.12.2006 made by the appropriate Government under Sections 10(1)(d) and 12(5) of the Industrial Disputes Act, 1947 (*hereinafter referred to as 'ID Act'*) was answered. By the award dated 19.09.2008, the learned Industrial Tribunal held that the appellant/petitioner was not entitled to be regularised in service.

3. Facts in brief of this case are that the appellant/petitioner is said to have joined as *Baildar* on 08.05.1982 on daily wage basis/fixed wages under the Minimum Wages Act, 1948 (*hereinafter referred to as 'Wages Act'*) with the Delhi Water Supply and Sewage Disposal Undertaking, the predecessor of the respondent-Delhi Jal Board.

4. It is said that service of the appellant/petitioner were terminated with effect from 09.01.1993 without any charge-sheet or domestic inquiry. The appellant/petitioner is said to have been involved in a criminal case under Sections 307/34 of the Indian Penal Code, Police Station Bora Kalan, District Muzaffarnagar in connection with which he was under custody and faced trial which resulted in his acquittal on 15.01.1995. After his acquittal, the appellant/petitioner is said to have reported for duty on 24.02.1995, however, he was not allowed to join his duties, and accordingly, an industrial dispute was raised on a reference made by the appropriate Government *vide* notification dated 29.09.1997 to the learned Industrial Tribunal for adjudication of the issue, as to whether the services of the



appellant/petitioner were terminated illegally and/or unjustifiably by the management and if so, to what relief was he entitled and what directions were necessary in that respect. The said industrial dispute (ID No.753/1997) was decided by the learned Presiding Officer of the Labour Court – II, Karkardooma Courts, New Delhi *vide* award dated 03.01.2002 whereby, it was held that termination of services of the appellant/petitioner w.e.f. 09.01.1993 was illegal and unjustified, with a further direction for his reinstatement in service as *Baildar* with 50% back wages, w.e.f from 17.07.1996.

5. It appears that pursuant to the said award of the Labour Court dated 03.01.2002, the appellant/petitioner was reinstated in service, however, he was not being regularised which led him to raise the second industrial dispute *vide* notification issued by the appropriate Government on 08.12.2006 for adjudication of the dispute, under Sections 10(1)(d) and 12(5) of the ID Act. The dispute which was referred for adjudication to the Tribunal/Labour Court *vide* notification of the appropriate Government dated 08.12.2006 was, as to whether the appellant/petitioner was entitled to be regularised on the post of *Baildar*, and if so, from which date and to what relief was he entitled and what directions were necessary in that respect. The said industrial dispute raised by the appellant/petitioner was decided by the Presiding Officer of the learned Industrial Tribunal – II, Karkardooma Courts, Delhi *vide* award dated 19.09.2008 wherein, it was held that the appellant/petitioner cannot be said to be entitled to regularisation from 01.04.1990 and further that he was not entitled to any relief or any direction from the Tribunal.



2026:DHC:2757-DB



6. The said award dated 19.09.2008, passed by the learned Industrial Tribunal – II was challenged by the appellant/petitioner by instituting the *W.P.(C) 12253/2009* which has been dismissed by learned Single Judge by the impugned judgment and order dated 31.05.2004 that is under challenge in the instant *intra-court* appeal.

7. Heard the learned counsel for the parties and perused the records available before us on this *intra-court* appeal.

8. The learned Industrial Tribunal in the course of rendering the award dated 19.09.2008, had framed two issues, namely, (i) whether there existed relationship of employer and employee between the claimant and management and (ii) in terms of the reference: whether the workman was entitled to be regularised on the post of *Baildar* and if so, from which date and to what relief was he entitled and what directions were necessary in that respect.

9. On evaluation of the evidence available on record, the learned Industrial Tribunal, while passing the award dated 19.09.2008, recorded a finding that since the workman was employed with the management and therefore, there existed relationship of employer and employee between them. The first issue was decided accordingly.

10. As regards issue no (ii) as to whether, the appellant/petitioner was entitled to be regularised on the post of *Baildar*, the learned Industrial Tribunal, after discussing the evidence and taking into consideration various judgments, came to the conclusion that the appellant/petitioner having been appointed *de-hors* the Recruitment Rules, was not entitled to be regularised



on the post of *Baildar* from his initial date of engagement i.e. 08.05.1982. While arriving at the aforesaid conclusion, various relevant aspects of the matter and the evidence adduced by the parties were considered by the learned Industrial Tribunal, including the stand taken by the respondent that initial engagement of the appellant/petitioner with Delhi Water Supply and Sewage Disposal Undertaking was not made against any sanctioned post and that he was engaged as a daily wager/muster roll employee. The learned Industrial Tribunal also concluded that there was a scheme of regularisation of daily wagers in the organisation of the respondent, according to which the daily wagers were to be regularised in accordance with their seniority, however, since the appellant/petitioner did not challenge the earlier award dated 03.01.2002 whereby, he was reinstated in service w.e.f. 17.07.1996 which resulted in a break of service, he could not be entitled to be regularised in the services of the respondent.

11. The learned Industrial Tribunal in its award dated 19.09.2008, discussed the evidence led by the parties and considered the claim of the appellant/petitioner that since the *Baildars* who had joined w.e.f. May, 1982 had been regularised w.e.f. 01.04.1990, therefore, by not regularising his services, the respondent had acted against him with hostile discrimination. However, the learned Industrial Tribunal also considered the evidence led by the respondent whereby it was established that he would also have been regularised w.e.f. 01.04.1990 had his services not been terminated w.e.f. 09.01.1993. The learned Industrial Tribunal also considered the evidence led by the appellant/petitioner himself wherein, he admitted that he had stopped reporting from duty w.e.f. 09.01.1993 and that thereafter, he raised the



2026:DHC:2757-DB



industrial dispute which led to passing of the award dated 03.01.2002 directing his reinstatement with 50% back wages w.e.f. 17.07.1996. It was also admitted by appellant/petitioner that *vide* the award dated 03.01.2002 he had not been given the benefit of continuity in service. It is, thus, noticeable that the appellant/petitioner did not challenge the award dated 03.01.2002 whereby he was reinstated in service w.e.f. 17.07.1996 and not w.e.f. 09.01.1993, which resulted in break in service as daily wager/muster roll employee and accordingly, under the policy of regularisation he could not be regularised at the relevant point of time.

12. The learned Industrial Tribunal has clearly held that because of the aforesaid circumstances where a break in service occurred for the period commencing on 09.01.1993 till the date of his reinstatement i.e. 17.07.1996 as directed by the Labour Court in its award dated 03.01.2002, it cannot be pleaded that there has been any hostile discrimination meted out to the appellant/petitioner and further that there is no violation of the policy of regularisation of daily wager employees as notified by the respondent.

13. Learned Single Judge by the impugned judgment and order did not interfere with the award dated 19.09.2008, which was under challenge before him.

14. It has been contended on behalf of the appellant/petitioner that in terms of the law laid down by the Hon'ble Supreme Court in *ONGC v. Krishan Gopal, 2020 SCC OnLine SC 150*, where an employer had regularised similarly situated workmen under any scheme or otherwise, the same benefit should be made available to a workman who has been deprived of such benefit of regularisation at par with the workmen whose services



have been regularised and if any such complaint is made before the Labour Court or Industrial Tribunal, the same needs to be considered accordingly, for the reason that deprivation of any such benefit would amount to violation of Article 14 of the Constitution of India. He has laid emphasis on the proposition laid down in paragraph 34(iv) of the report in *ONGC (supra)*. Paragraph 34 of the said judgment is extracted herein below:

*“34. The following propositions would emerge upon analyzing the above decisions:*

*(i) Wide as they are, the powers of the Labour Court and the Industrial Court cannot extend to a direction to order regularisation, where such a direction would in the context of public employment offend the provisions contained in Article 14 of the Constitution;*

*(ii) The statutory power of the Labour Court or Industrial Court to grant relief to workmen including the status of permanency continues to exist in circumstances where the employer has indulged in an unfair labour practice by not filling up permanent posts even though such posts are available and by continuing to employ workmen as temporary or daily wage employees despite their performing the same work as regular workmen on lower wages;*

*(iii) The power to create permanent or sanctioned posts lies outside the judicial domain and where no posts are available, a direction to grant regularisation would be impermissible merely on the basis of the number of years of service;*

*(iv) Where an employer has regularised similarly situated workmen either in a scheme or otherwise, it would be open to workmen who have been deprived of the same benefit at par with the workmen who have been regularised to make a complaint before the Labour or Industrial Court, since the deprivation of the benefit would amount to a violation of Article 14; and*

*(v) In order to constitute an unfair labour practice under Section 2(ra) read with Item 10 of the V<sup>th</sup> Schedule of the ID Act, the employer should be engaging workmen as badlis, temporaries or casuals, and continuing them for years, **with the object of depriving them of the benefits payable to permanent workmen.**”*

15. So far as the legal proposition propounded in *ONGC (supra)* is concerned, there cannot be any quarrel, however, in the facts of the present case, the claim of regularisation on the ground that the appellant/petitioner



2026:DHC:2757-DB



was subjected to hostile discrimination, cannot be accepted for the reason that the learned Industrial Tribunal has clearly recorded a finding that he would also have been regularised under the scheme of the respondent had his services not been terminated w.e.f. 09.01.1993. It is also noteworthy that the award dated 03.01.2002, though directed the respondent to reinstate the appellant/petitioner, but only w.e.f. from 17.07.1996 and not w.e.f. 09.01.1993. The date of reinstatement as directed by the Labour Court award dated 03.01.2002 was never challenged by the appellant/petitioner and therefore, finding of a break in service has been recorded by the learned Industrial Tribunal in the award, dated 19.09.2008.

16. Learned counsel for the appellant/petitioner, thereafter, placed reliance on *Sanat Kumar Dwivedi v. Dhar Jila Sahakari Bhoomi Vikas Bank Maryadit*, (2001) 9 SCC 402 to submit that even if a workman is deprived of back wages, the order depriving the back wages will not be treated to be resulting in any break in service. The facts of the said case were that the workman was reinstated in service by dint of an order dated 12.05.1978 with a condition that he will not get any back wages. In the said case, the services of the workman were terminated on 08.03.1976 but by the order dated 12.05.1978 he was reinstated without back wages. The workman had accepted the reinstatement without back wages by submitting his joining report on 13.05.1978. The Court observed that under these facts, subsequent dispute raised by him regarding back wages was clearly not maintainable in terms of the law laid down by Hon'ble Supreme Court in *State of Punjab v. Krishan Niwas*, 1997 9 SCC 31, however, the Hon'ble Supreme Court clarified that order dated 12.05.1978 cannot be treated to have resulted in



any break in service of the workman, rather will be deprived only the back wages and further that continuity of service and all other notional benefits will be available to him

17. However, the judgement of *Sanat Kumar Dwivedi (supra)*, in our opinion, is not applicable to the facts of the instant case for the reason that the award dated 03.01.2002 clearly stipulated that the appellant/petitioner shall be reinstated in service w.e.f. 17.07.1996 and not w.e.f. 09.01.1993 when his services were terminated. As already observed above, the date of reinstatement as stipulated in the award dated 03.01.2002 was never challenged by the appellant/petitioner and therefore, in the facts of the instant case, we do not find any illegality in the finding recorded by the Labour Court in its award dated 19.09.2008 that there occurred a break in service which disentitled the appellant/petitioner to claim regularisation in service.

18. Reliance placed by learned counsel for the appellant/petitioner on *Gurpreet Singh v. State of Punjab, (2002) 9 SCC 492* is also of no avail to the cause of the appellant/petitioner for the reason that in the said case the High Court, by the order which was under challenge before Hon'ble Supreme Court, had confirmed the decree of the Appellant Court that workman will not be entitled to any arrears of salary, further adding that he will not get continuity in service. It is in these facts that Hon'ble Supreme Court observed that it is beyond comprehension how continuity of service could be denied once the workman was directed to be reinstated in service on setting aside the order of termination. In the present case, however, the Labour Court, while directing reinstatement of the appellant/petitioner *vide*



2026:DHC:2757-DB



award dated 03.01.2002, had specifically directed that he shall be reinstated w.e.f. 17.07.1996 and not w.e.f. the date on which his services were terminated i.e. 09.01.1993. The said direction of the Labour Court in its award dated 03.01.2002 was never challenged by the appellant/petitioner and therefore, in our opinion, **Gurpreet Singh (supra)** does not have any application to the facts of the present case.

19. For the similar reasons the judgment of High Court of Gujarat in **Vasantika R. Dalia v. Baroda Municipal Corporation, 1997 SCC OnLine Guj 93** and of this Court in **Om Prakash v. Delhi Jal Board, 2015 SCC OnLine Del 12739** also do not improve the case of the appellant/petitioner.

20. Learned counsel for the appellant/petitioner also refers to the judgment of Hon'ble Supreme Court in the case of **Maharashtra SRTC v. Casteribe Rajya Parivahan Karmchari Sanghatana, (2009) 8 SCC 556** wherein it has been held by Hon'ble Supreme Court that notwithstanding the judgment rendered by Hon'ble Supreme Court in **State of Karnataka v. Umadevi (3), (2006) 4 SCC 1** the power of industrial adjudicators, i.e. the learned Industrial Tribunal and the Labour Court, does not get diluted to adjudicate any dispute raised by the workman who has been a victim of unfair labour practice. The said judgment also does not improve the case of the appellant/petitioner for the reasons already stated above in the preceding paragraphs.

21. So far as reference made to the judgment in **Bidi, Bidi Leaves & Tobacco Merchants' Association v. State of Bombay, 1961 SCC OnLine SC 33** is concerned, we note that Hon'ble Supreme Court in the said case has held that under the ID Act, industrial adjudicators have been give wide



powers and jurisdiction to make appropriate award while determining the industrial dispute brought before them. There cannot be any dispute so far as the legal proposition propounded in this judgment is concerned, however, in view of the finding arrived at by us in the preceding paragraphs, this judgment also does not help the cause of the appellant/petitioner.

22. It is needless to say that initial engagement of the appellant/petitioner as daily wager/muster roll employee was made not against any sanctioned post, however, since policy of regularisation by the respondent was brought into force, the claim of the appellant/petitioner would have been considered. But, in view of the unambiguous finding recorded by the learned Industrial Tribunal in its award dated 19.09.2008 that his services could not be regularised under the scheme of regularisation on account of break in service, his claim for regularisation in service has rightly been not acceded to by the learned Industrial Tribunal.

23. We thus, find that learned Single Judge has rightly not interfered with the award dated 19.09.2008 rendered by the learned Industrial Tribunal. Accordingly, we do not find any good ground to interfere in the instant *intra-court* appeal, which is hereby dismissed.

24. There will be no order as to costs.

**(DEVENDRA KUMAR UPADHYAYA)**  
**CHIEF JUSTICE**

**(TEJAS KARIA)**  
**JUDGE**

**APRIL 02, 2026/MJ**