



2026:DHC:4791



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

% Reserved on : 27.03.2026
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+ **W.P.(C) 5967/2019**

DEEPAK KUMAR SHARMAPetitioner

Through: Mr. Naman Jain, Advocate.

versus

M/S UNIVERSITY OF DELHIRespondent

Through: Ms. Manisha Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition seeks to assail the award dated 20.10.2018, whereby the industrial dispute preferred by the petitioner/workman was decided against him, holding that he was not entitled to any relief.

2. Before proceeding further, it is apt to note that the impugned order is an outcome of the second round of litigation. The workman had earlier approached the Industrial Adjudicator, claiming that he had been employed as an *Electrical-Khalasi* in the Engineering Department of the management as a daily wager and had worked until 07.02.1994. The workman had further claimed that the management had regularized seven workers junior to him



and, in some cases, backdoor entries were also made. Pertinently, in his claim application, the claimant/workman had based his case on the violation of Sections 25B and 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the “ID Act”).

The management had disputed the said claim and examined one *P. N. Datta*, who in his cross-examination stated that *Shyam Lal, Jai Ram, Rameshwar, Ved Pal, Ram Niwas, Chhattar Pal, Inder Pal, Bharat Ram, Triveni, Balam Singh Rawat, and Dharam Pal* were taken back on duty after 07.02.1994 on a daily wage basis as per their prior status, in accordance with the orders passed by the Court.

The Industrial Adjudicator, not finding favour with the contentions of the workman, dismissed the said claim *vide* award dated 17.04.2006.

3. The aforesaid award was assailed before this Court *vide* **W.P.(C) No. 9976/2009**. While noting that the workman had not raised any plea before the Industrial Adjudicator regarding the violation of Sections 25G and 25H of the ID Act, the Court nevertheless examined the explanation provided regarding the selection method and the circumstances under which the 14 individuals named in the RTI reply dated 24.08.2006 were appointed. Consequently, the challenge preferred by the workman was dismissed *vide* order dated 14.10.2011 of this Court (rendered by Justice Sanjiv Khanna, as his Lordship then was). The said decision is reproduced below:

“On 10th July, 2009, when this writ petition had come up for hearing for the first



time, the following order was passed :-

'This writ petition filed by the workman (the petitioner herein) is directed against an award dated 17.04.2006 passed by Mr.S.K.Sarvaria, POLC XII rejecting his claim for reinstatement and back wages on the ground that he has not done 240 days continuous service during the preceding years of his alleged termination.

Mr.Anuj Aggarwal learned counsel appearing on behalf of the petitioner contends that the respondent has retained persons who were juniors to the petitioner while terminating the services of the petitioner from the respondent university. He has placed reliance on Annexure P-10 (Colly) at pages 55-57 to support his said contention.

This contention raised by the petitioner requires consideration.

Issue notice to the respondent restricted to the point of the petitioner's contention relating to retention of employees juniors to the petitioner while terminating his services to the respondent. Mr.Mohinder J.S. Rupal accepts notice on behalf of the respondent and requests for time to file his response to the petition.

Counter affidavit be filed within four weeks. Rejoinder, if any, within two weeks thereafter.

LCR be also requisitioned for the next date.'

2. *Learned counsel for the petitioner submits that the petitioner was employed as Electric-Khalasi on 01.04.1982, in the Engineering Department as daily wager and had worked with the respondent/University of Delhi up to 07.02.1994. It is submitted that during this period the respondent had regularized services of fourteen employees though these employees had been engaged after the initial appointment of the petitioner on 01.04.1982. Accordingly there is violation of Sections 25G and 25H of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act')*

3. *In a claim statement filed before the Industrial Adjudicator, the petitioner had pleaded as under:*

'That is in the knowledge of the workman that the Management has regularized/recruited several other worker junior to the workman



and in some cases back door entries have been made by the management.'

4. *Mr.P.N.Dutta witness of the respondent/management was cross-examined by the petitioner. In the cross-examination the said witness had deposed as under:*

'It is correct that S/Shri Shyam Lal, Jai Ram, Rameshwar, Ved Pal, Ram Niwas, Chattar Pal, Inder Pal, Bharat Ram, Triveni, Balam Singh Rawat and Dharam Pal were taken back on duty by the management after 07.02.1994 Voltd. they were taken on duty as per Court's order and on daily wages basis, as their status before the order was also the same. I do now know the place of his gainful employment. It is wrong to suggest that I have filed false affidavit.'

5. *Keeping in view the evidence on record and the material available before the Court, by Award dated 17.04.2006 the claim petition was dismissed. Perusal of the Award shows that the petitioner had relied upon violation of Section 25B and 25F of the Act and the petitioner had not specifically urged and argued that there was violation of Section 25G and 25H of the Act. The thrust of the arguments raised was that the petitioner had rendered service of more than 240 days in a year and therefore was entitled to protection under the Act. The said contention was rejected by the Labour Court in the Award dated 17.04.2006 by giving various reasons including those set out in paragraph 20 of the impugned Award. In paragraph 20 of the award it is also recorded:-*

'The workman in the paragraph three of the statement of claim has given the breakup of service period with the management as referred in the earlier part of this award. In this paragraph three of the statement of the claim he has alleged that he worked for 241 days in between the period April 1985 to August 1986. To prove this fact he was relied upon Exhibit WW1/5 the certificate issued by the management on 8th March, 1990. This document Exhibit WW1/5 shows the period of service of the workman from April 1985 to August 1985 and total working days 110 plus 241 = 351 days. When there are only 123 days between April 1985 to August 1985 how can the workman work for 351 days during this period? At another place in paragraph three of the statement of claim the workman has alleged that he worked for 300 days during the



period November, 1987 to September 1988. He has proved the certificate issued by the management Exhibit WW1/6 and Exhibit WW1/7 to show that he worked on daily basis with effect from their of November, 1987 to 30 of November 1987 and 6 Sep. 1988 to 30 Sep. 1988. He also produced another certificate Exhibit WW1/8 so that he worked on muster roll basis from 16 Mar 1988 to September 1980. These documents Exhibits WW1/6 to 8, therefore, do not prove that the workman worked for 300 days during the period November 1987 to September, 1988. The other averments made by the workman in paragraph three of the statement of claim, as per own case of the workman, as regards the work done by him in these difference periods do not go to show that he worked for 240 days or more during these periods. Therefore, the workman has failed to prove on record that he completed one year's continuous service or 240 days of service prior to his alleged termination on the any one of the years in which he worked with the management. The effect of this finding is that the termination of the services of the workman by set management cannot be said to be illegal.'

6. *It may also be noticed that after the termination of the petitioner in 1994, he raised the industrial dispute after six years i.e. in 2000. This delay is relevant when we consider the contention of the petitioner that some other casual workers were appointed as regular employees in 1984 and 1989.*

7. *After the award was passed, the petitioner filed an application under Right to Information Act, 2005 and by letter dated 24.08.2006 the following information was furnished:*

'That details of the persons appointed between 26.10.1984 and 17.02.1989 by the University after the engagement of Shri Deepak Sharma in the cadre of Electric Khalasi are given below:

1. *S/Shri Sripal*
2. *Ram Dass*
3. *Subhash Chander*
4. *Suraj Mal*
5. *Shiv Lal*
6. *Rabinder Singh*



7. *Indrajit Singh*
8. *Jagat Singh Negi*
9. *Ramesh Chand*
10. *Shish Pal*
11. *Mohar Singh*
12. *Rajbeer*
13. *Dinesh*
14. *Ram Naresh'*

7. *The respondent in the counter affidavit filed before this Court pursuant to the order dated 10.7.2009, which has been quoted above, has stated that a Selection Committee was appointed in the year 1984 and the appointments to the posts of Beldar, Khalasis, Helper to store and Sewerman were made on the basis of the selection made on 3rd and 4th September, 1984.*

Pursuant to the notice put up in the Engineering Department and on the bases of applications received, the selection was made by the Selection Committee of those who were already working on daily wages and had completed six or more than six months service, besides other candidates who had been sponsored by the Employment Exchange. The petitioner had not filed any application for appointment pursuant to the notice and therefore was not considered for selection.

8. *In the counter affidavit, it is further stated that Mohar Singh and Ram Naresh were appointed as Electrical Khalasi pursuant to their selection by a duly constituted Selection Committee on 27.11.1987. The said selection was approved by the Pro Vice Chancellor on 14.12.1987. The minutes of the said Selection Committee have been placed on record as Annexure R-2 to the counter affidavit. Thus, these selections have been made as per the applicable Rules/ law. An appropriate constituted Selection Committee had examined applications made by the 85 candidates out of which 59 were called for interview. After interview the Selection Committee had recommended 8 unreserved candidates and 4 reserved candidates for selection. Mohar Singh belongs to Scheduled Castes category.*

9. *It is, therefore, clear from the evidence that the material brought*



on record and relied upon by the petitioner in this writ petition was not before the Industrial adjudicator. The petitioner had not relied upon the violation of section 25H and 25G of the Act. The respondent has also explained the method of selection and in what circumstances 14 persons whose names are mentioned in the information furnished on 24.08.2006 were selected. The respondents have also explained the manner in which Mohar Singh and Ram Naresh were selected in 1987.

10. In view of the aforesaid, I do not find merit in the present writ petition and the same is accordingly dismissed. There will be no order as to costs.”

4. The workman assailed the aforesaid decision before the Division Bench of this Court *vide* **LPA No. 105/2013**. The Division Bench, *vide* its decision dated 22.02.2013, refused to interfere with the award or with the decision of the learned Single Judge, however, clarified that only if the workman was entitled to raise the dispute in a matter which had not been decided by the Labour Court, the findings rendered by this Court on that aspect should not stand in the way of the workman. The relevant extract from the decision of the Division Bench is reproduced hereunder:

“However, the learned counsel for the appellant has finally submitted that the order of this Court should not stand in the way of the workman to raise a fresh dispute as to the events placed before this Court for the first time. In our opinion, even if the appellant workman has got a right to raise a dispute, the order of the Court cannot stand in his way. In that sense only, while dismissing the appeal, we make it clear that only if the appellant is entitled to raise the dispute in a matter which has not been decided by the Labour Court, the findings rendered by this Court on that aspect shall not stand in the way of the workman.”

5. In this background, the workman raised the present industrial dispute



vide Old ID No. 95/2014. The Deputy Labour Commissioner made the following reference:

“Whether termination of services of Sh. Deepak Kumar Sharma S/o late Sh. Shanti Swaroop Sharma, a daily wage employee who has not rendered uninterrupted continuous services for a period of 240 days in any calendar year is justified while retaining his juniors by the management and making of subsequent appointments on the same post by the management? If not what directions are necessary in this respect?”

6. The Industrial Adjudicator framed the following issues for adjudication:

- “(i) Whether the application filed by the claimant is maintainable?*
- (ii) Whether the management terminated the services of the workman in violation of Section 25-F, G and H?*
- (iii) Relief.”*

7. The workman examined himself and relied upon the aforementioned reply received by him under the Right to Information Act, 2005 about the services of the 14 workmen who were junior to him and regularized.

8. The management, on its part, sought dismissal of the claim by contending that the workman had failed to challenge the termination of his services successfully before the Labour Court as well as the High Court, and the said issue having attained finality, no fresh cause of action arose. It was further contended that while Section 25G of the ID Act provides for the retrenchment of workmen on the principle of ‘last come, first go’, Section 25H of the ID Act provides for an opportunity of re-employment to the retrenched workmen ‘who offer themselves for re-employment’.



9. I find force in the submissions of the learned counsel for the management that the Division Bench of this Court, while upholding the earlier award and the order passed by the learned Single Judge of this Court, did not set aside the findings recorded in the award, which were upheld by the learned Single Judge. The challenge was dismissed without commenting on or altering the said findings in any manner.

10. Merely on the prayer of the workman, he was permitted to raise a fresh industrial dispute. This Court finds that the Division Bench of this Court had only granted a liberty to the workman to raise a fresh dispute on issues not previously decided, without disturbing the findings that have (since) attained finality. The concurrent findings that the workman had not completed 240 days of continuous service and that the initial industrial dispute was highly belated remain unchallenged.

11. Furthermore, reliance upon Sections 25G and 25H of the ID Act is entirely misplaced as the same cannot be viewed in isolation from the fact that the workman failed to apply for appointment during the selection process conducted by the management. Having skipped the selection procedure, the workman cannot now claim a right to re-employment over those who participated and were duly selected.

12. In view of the above, this Court finds no infirmity or illegality in the impugned order.



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13. Accordingly, the present writ petition is dismissed and disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

MAY 26, 2026

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