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

% Reserved on : 21.08.2026
Pronounced on : 02.09.2026
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CNR No. DLHC010429412022

\+ **W.P.(C) 15847/2022**

MANGE RAM SHARMA & ANR. .....Petitioners
Through: Mr. Rajiv Agarwal, Ms. Meghna De, Ms. L. Gangmei, Mr. Siddharth Sapra, and Mr. Tusshay Singh B., Advocates

versus

MUNICIPAL CORPORATION OF DELHI .....Respondent
Through: Ms. Namrata Mukim, Standing Counsel with Mr. Niharika Singh and Ms. Sakshi Saxena, Advocates

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition has been preferred assailing the award dated 16.12.2020 passed by the learned Presiding Officer, Industrial Tribunal-02, Rouse Avenue Courts Complex (hereinafter referred to as the "Tribunal"), in ID No. 436/2016.

Vide the impugned award, the Tribunal returned a finding that the discharge of the workmen was covered under the exception carved out in Section 2(oo)(bb) of the Industrial Disputes Act, 1947 (hereinafter referred to as the "ID Act") and, therefore, did not amount

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to retrenchment, and further that they failed to fulfil the requirement of Section 25B(1) of the ID Act as they had not completed 240 days of service in the preceding 12 months.

2. The present petitioners, along with another workman, had approached the conciliation machinery and subsequently the Tribunal raising an industrial dispute, in which it was stated that they were employed with the management on the post of *Beldar* from 01.07.2003 (petitioner no. 1) and 01.07.2006 (petitioner no. 2). They were engaged on a daily-rated/muster roll basis and were paid wages as fixed and revised from time to time under the Minimum Wages Act, 1948. It was further stated that they were given job for a period of 3 months in a year. Furthermore, every year they were given breaks and their services were eventually terminated on 16.10.2010, whereafter they have not been given any job for any period. It was further claimed that the act of the management amounts to unfair labour practice.

3. A further claim was made seeking regularization of their services by claiming that their jobs were permanent and regular in nature and they have discharged their duties diligently for the last 15 years. It was further claimed that other similarly placed workers were regularized on the directions of the Central Administrative Tribunal. It was further claimed that at the time of termination of services no seniority list was displayed nor were the petitioners granted any opportunity of being heard. It is also submitted that juniors to the workmen were retained in service.

4. The appropriate Government referred the following Terms of Reference to the Tribunal for adjudication:-

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(1) "*Whether services of Sh. Pawan Bhati S/o Sh. Attar Singh and 2 Ors. (Annexure-A) have been terminated illegally and/or unjustifiably by the management; and if yes, to what relief are they entitled and what directions are necessary in this respect?*"

(2) "*Whether demand of workmen Sh. Pawan Bhati S/o Sh. Attar Singh and 2 Ors. (Annexure-A) for regularization of their services on the post of Beldar from the date of their respective joining or as per policy of the management and difference of salary on the principle of "Equal Pay for Equal Work" alongwith arrears and consequential benefits, is justified, and if so, what directions are necessary in this respect?*"

5. Mr. Agarwal, learned counsel for the petitioners, contended that the Tribunal misdirected itself by proceeding to decide the case in terms of Section 2(oo)(bb) of the Act. He submits that in the present case, the workmen had not claimed that they were appointed under any contract for a specified period of which there was no renewal made. It was rather the case of the workmen that there was no specified period for which they were engaged, in fact the engagement continued for about 15 years. The claim of the workmen has gone unanswered inasmuch as the management failed to file any written statement or lead evidence before the Tribunal.

On the strength of the above submissions, it is contended that the act of the management is in violation of the provisions of Section 25B of the ID Act and Rules 77 and 78 of the Industrial Disputes (Central) Rules, 1957.

In support, learned counsel has also placed reliance on *Shri Amar Pal & Anr. Vs. MCD*[1], *S.M. Nilajkar and Others Vs. Telecom District Manager, Karnataka*[2], and *Management of Municipal Corporation of Delhi Vs. Presiding Officer, Industrial Tribunal and*

[1] W.P.(C) 15983-84/2004, decided on 23.12.2005

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Another[3].

6. Ms. *Mukim*, learned counsel for the respondent, on the other hand, contended that it is the conceded case of the workmen that they have not completed 240 days in service in the preceding 12 months and thus the Tribunal was correct in dismissing the claim in light of Section 2(oo)(bb) of the ID Act. Learned counsel also relied on the judgment of this Court in *North Delhi Municipal Corporation Vs. Bal Kishan & Anr.*[4].

7. The principal question that arises for consideration is whether the termination of the services of the workmen amounts to retrenchment and further whether the management had followed the statutory procedure under Section 25G of the Act.

8. In the backdrop of the factum that the workmen had not completed 240 days of service in the preceding 12 months, the Tribunal proceeded to decide the claim by holding that the present case is not one of retrenchment, in light of Section 2(oo)(bb) of the ID Act. The said provision is reproduced hereunder:-

> "*2 Definitions.—In this Act, unless there is anything repugnant in the subject or context,—*
>
> *(oo) 'retrenchment' means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—*
>
> *...*
>
> *(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or*"

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[2] (2003) 4 SCC 27
[3] 2011 SCC OnLine Del 5759
[4] LPA 258/2020, decided on 06.11.2025

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9. For Section 2(oo)(bb) of the ID Act to be applicable, the management has to show that the workman was appointed under a contract for a fixed period and there was no renewal thereof.

10. From the pleadings and evidence that came on record before the Tribunal, there is no assertion that the workmen were employed for any specific project which came to an end. The pleadings remain unanswered as no written statement was filed. No such case is borne out of the cross-examination of the workmen either.

11. To claim the benefit of Section 2(oo)(bb) of the ID Act, the burden was cast on the management, which it failed to discharge. The management was required to show that the employment was under a contract which stipulated that it would come to an end with the expiry of the particular project or scheme for which the workmen were engaged. It was further required that the workmen were well aware of such stipulation at the commencement of the appointment. The management had all the records relating to the appointment and service of the workmen, which it failed to bring on record.

12. At this stage, this Court takes note of the decision of the Coordinate Bench of this Court in *Amarpal* (*supra*), where the Court was in seisin of similar facts. The said case also pertained to workmen employed with the MCD, who had not completed 240 days of service in the preceding 12 months. The Coordinate Bench noted that MCD had not placed any appointment letter or any document on record in support of its plea that the workmen were appointed for a specific period. No particular nature of assignment of work which they were required to do or details thereof were placed on record. The assertion

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of the workmen stood unrebutted. The Court further relied on a decision of the Supreme Court in *Samishtha Dubey Vs. City Board*[5], where the Apex Court held that the definition of "workman" in industrial law is not restricted only to regular employees and would include daily wagers, and that the rule of seniority was also applicable to such daily wagers.

13. Now, Section 25G of the Act provides for the procedure for retrenchment, which reads as under:-

> "***25G. Procedure for retrenchment.***- *Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.*"

A plain reading of the above would show that the employer is statutorily required to adhere to the rule of 'first come, last go', or in the alternative 'last come, first go'. In *S.M. Nilajkar* (*supra*), the Supreme Court considered the case of casual labourers whose services were terminated and were not re-engaged. While discussing the term "retrenchment" as well as the exception carved out under Section 2(oo)(bb) of the ID Act, the Court held as under:-

> "*11. It is common knowledge that the Government as a welfare State floats several schemes and projects generating employment opportunities, though they are short-lived. The objective is to meet the need of the moment. The benefit of such schemes and projects is that for the duration they exist, they provide employment and livelihood to such persons as would not have been able to secure the same but for such schemes or projects. If the workmen employed for fulfilling the need of such passing-phase projects or*

[5] 1999 II AD (SC) 257

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schemes were to become a liability on the employer State by too liberally interpreting the labour laws in favour of the workmen, then the same may well act as a disincentive to the State for floating such schemes and the State may opt to keep away from initiating such schemes and projects even in times of dire need, because it may feel that by opening the gates of welfare it would be letting in onerous obligations entailed upon it by extended application of the labour laws. Sub-clause (bb) in the definition of retrenchment was introduced to take care of such like situations by the Industrial Disputes (Amendment) Act, 1984 with effect from 18-8-1984.

12. "Retrenchment" in its ordinary connotation is discharge of labour as surplus though the business or work itself is continued. It is well settled by a catena of decisions that labour laws being beneficial pieces of legislation are to be interpreted in favour of the beneficiaries in case of doubt or where it is possible to take two views of a provision. It is also well settled that Parliament has employed the expression "the termination by the employer of the service of a workman for any reason whatsoever" while defining the term "retrenchment", which is suggestive of the legislative intent to assign the term "retrenchment" a meaning wider than what it is understood to have in common parlance. There are four exceptions carved out of the artificially extended meaning of the term "retrenchment" and, therefore, termination of service of a workman so long as it is attributable to the act of the employer would fall within the meaning of "retrenchment" dehors the reason for termination. To be excepted from within the meaning of "retrenchment" the termination of service must fall within one of the four excepted categories. A termination of service which does not fall within categories (a), (b), (bb) and (c) would fall within the meaning of "retrenchment".

13. The termination of service of a workman engaged in a scheme or project may not amount to retrenchment within the meaning of sub-clause (bb) subject to the following conditions being satisfied:

> *(i) that the workman was employed in a project or scheme of temporary duration;*
>
> *(ii) the employment was on a contract, and not as a daily-wager simpliciter, which provided inter alia that the employment shall come to an end on the expiry of the scheme or project;*
>
> *(iii) the employment came to an end simultaneously with the termination of the scheme or project and consistently with the terms of the contract; and*
>
> *(iv) the workman ought to have been apprised or*

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made aware of the abovesaid terms by the employer at the commencement of employment.

14. The engagement of a workman as a daily-wager does not by itself amount to putting the workman on notice that he was being engaged in a scheme or project which was to last only for a particular length of time or up to the occurrence of some event, and therefore, the workman ought to know that his employment was short-lived. The contract of employment consciously entered into by the workman with the employer would result in a notice to the workman on the date of the commencement of the employment itself that his employment was short-lived and as per the terms of the contract the same was liable to termination on the expiry of the contract and the scheme or project coming to an end. The workman may not therefore complain that by the act of the employer his employment was coming to an abrupt termination. To exclude the termination of a scheme or project employee from the definition of retrenchment it is for the employer to prove the abovesaid ingredients so as to attract the applicability of sub-clause (bb) aforesaid. In the case at hand, the respondent employer has failed in alleging and proving the ingredients of sub-clause (bb), as stated hereinabove. All that has been proved is that the appellants were engaged as casual workers or daily-wagers in a project. For want of proof attracting the applicability of sub-clause (bb), it has to be held that the termination of the services of the appellants amounted to retrenchment."

14. Similarly, another Coordinate Bench of this Court in *Management of Municipal Corporation of Delhi* (*supra*), following the decision of the Supreme Court in *Harjinder Singh Vs. Punjab State Warehousing Corporation*[6], upheld the relief of reinstatement in a similar fact situation where Section 25G was not complied with, relying on the following extract from *Harjinder Singh* (*supra*):-

"*It is settled law that for attracting the applicability of Section 25-G of the Act, the workman is not required to prove that he had worked for a period of 240 days during twelve calendar months preceding the termination of his service and it is sufficient for him to plead and prove that while effecting retrenchment, the employer violated the rule of `last come first go' without any tangible reason.*"

[6] (2010) 3 SCC 192

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15. The respondent's reliance on the decision in *Bal Kishan* (*supra*) is misplaced. Therein, the Court was seized of a case where the workman was claiming to be a permanent employee, and the Court had to decide whether he was entitled to benefits under Section 25F of the ID Act, and whether his termination was in accordance with the provisions of the ID Act. The workman in the said case also had an FIR registered against him and was in judicial custody. The said decision has also been assailed before the Supreme Court and is pending consideration.

16. In light of the aforesaid discussion, this Court is of the considered opinion that the management had clearly failed to bring its case within the provisions of Section 2(oo)(bb) of the ID Act. The impugned award, to that extent, is set aside. It is held that the termination of the services of the workmen amounts to retrenchment.

17. Accordingly, the management is directed to reinstate the workmen in service with consequential benefits. Insofar as the second Reference is concerned, the same was not gone into by the Tribunal and accordingly, to that limited extent, the matter is remanded back to the Tribunal to decide the second Reference, for which purpose the parties shall appear before the Tribunal on 18.09.2026.

18. The present writ petition is disposed of in the aforesaid terms.

(MANOJ KUMAR OHRI)
JUDGE

SEPTEMBER 02, 2026
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