IN THE COURT OF MS. MANJUSHA WADHWA:
PRESIDING OFFICER INDUSTRIAL TRIBUNAL-I,
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.

F. No. 24(137)/18/Ref./CD/Lab./616
Dated: 08.08.2018

POIT NO.: 70/2018

Workman:
Sh. Vipin Dagar,
S/o Late Sh. Govinder Singh,
R/o RZ-160, D-block, Gopal Nagar,
Najafgarh, New Delhi-110043.

Through
General Secretary,
Delhi Labour Union (Regd. No. 1026),
Agarwal Bhawan, G.T. Road,
Tis Hazari, Delhi- 110054.

Vs.

The Management of :

M/s Delhi Transport Corporation,
I.P. Depot (Headquarter),
I.P. Estate, New Delhi-110002
(through its Chairman).

Date of Institution	:	18.08.2018
Date of Arguments	:	21.11.2025
Date of Award	:	27.11.2025.

AWARD

1. The Labour Department, Govt. of National Capital Territory of Delhi has referred the dispute arising between the parties named above for adjudication to this tribunal with following terms of reference:

> **"Whether demand for regularization of Sh. Vipin Dagar S/o Late Sh. Govinder Singh, Age 30 years as a Conductor with retrospective effect from the date of his initial appointment in the proper pay scale and payment of difference of salary on the "Principle of Equal Pay for Equal Work" is justified and if so, what directions are necessary in this respect?"**

2. It is stated that Sh. Govinder Singh was employed with the management of Delhi Transport Corporation (referred to DTC, hereinafter) as a regular conductor in the year 1985 and he expired on 17.08.2009 and subsequently, the workman herein namely Mr. Vipin Dagar, who is son of late Sh. Govinder Singh, applied for his appointment on compassionate ground. Consequently, vide office order dated 14.01.2010, he was called for interview and appointed on the post of Conductor as a contract/daily wage employee instead of a regular employee.

3. It is further stated that the workman was discharging the duties as are being discharged by his regular counter parts, accordingly the workman concerned is also entitled for Equal Pay for Equal Work. It is further stated that the action on the part of management regarding giving employment to the workman on compassionate ground as contract/daily wager employee instead of regular workman at the post of Conductor and non-payment of salary in proper pay scale and allowances on the

principle of Equal Pay for Equal Work along with arrear thereof is totally illegal and malafide.

4. It is further stated that the workman has acquired the status of permanent employee from the initial date of his joining into the employment after completing 240 days of continuous employment on regular basis as has been held by the Hon'ble Supreme Court of India in ONGC Ltd. vs Petroleum Coal Labour Union and Ors. (2015) IILJ 257SC.

5. It is further stated that a demand notice was also served upon the management by Registered A.D. post vide communication dated 28.07.2017, which was duly received in their office, but no reply was ever received. Thereafter, conciliation proceedings were initiated but the same resulted in failure due to the adamant and non-cooperative attitude of the management. Hence, the present claim was filed by the workman against the management seeking reliefs as prayed in the claim.

WRITTEN STATEMENT

6. The Written Statement was filed on behalf of the management, wherein a preliminary objection was taken that the workman is not entitled to any relief as his appointment was made on the basis of a contract between the management and the workman and that there was no permanent post of Conductor in DTC for appointment on compassionate ground, and that the case of the workman could be considered only subject to 5% compassionate-ground quota, and further that the claim of the workman is not espoused by any union.

7. It is further stated that as per the minutes of meeting dated 07.05.2010 of CMD, DTC with the Hon'ble Finance Minister and PS Commissioner

Transport, recruitment for any post in DTC should be made only after approval of the Delhi Government and that the requirement of additional drivers/conductors should be met on a contractual basis.

8. It is further stated that DTC engaged persons on the posts of Driver and Conductor on short-term contract and that they are paid minimum wages plus incentives vide Circular dated 30.12.2011 issued by the Finance Department, GNCT of Delhi. It is further stated that the workman was appointed on contract basis initially for 89 days and thereafter, after a gap of one or two days, he was appointed for one year. The management denied that the workman is entitled to the same pay as regular workmen. It is further denied that the family of the workman is in great distress and his son should have been given regular employment. It is prayed that the claim of the workman is liable to be dismissed.

REJOINDER

9. The workman filed a rejoinder wherein he denied the averments made in the written statement and reaffirmed the statement of claim as true and correct.

ISSUES

10. Vide order dated 08.05.2019 on completion of pleadings, the following issues were framed by the Ld. Predecessor of this Tribunal:-

(1.) Whether the workman has no cause of action to file the claim? OPM
(2) Whether the claim of the workman is not maintainable for want of espousal by the union? OPW
(3) As per terms of reference.

WORKMAN'S EVIDENCE

11. The workman Sh. Vipin Dagar has examined himself as WW1 and he has relied upon the documents as under:

Srl. No.	Exhibits/Ex.	Documents
1.	**Ex.WW1/1**	Copy of Legal Demand notice dated 28.07.2017 issued by Union to the Management.
2.	**Ex. WW1/2**	Copy of Postal Receipt No. RD802908617IN.
3.	**Ex. WW1/3**	Copy of Acknowledgment Card.
4.	**Ex. WW1/4**	Copy of Statement of Claim filed before the Conciliation Officer.
5.	**Ex. WW1/5**	Copy of minutes of Espousal meeting dated 12.07.2017.
6.	**Ex. WW1/6**	Copy of reply/written statement filed by the management before the Conciliation Officer.
7.	**Ex. WW1/7**	Copy of Rejoinder filed by the workman before the Conciliation Officer.
8.	**Ex. WW1/8**	Copy of application of the workman filed before the DTC for engagement as a Bus Conductor on compassionate ground.
9.	**Ex. WW1/9**	Copy of Duty I.D. Card issued by the

		management in favour of workman.
10.	**Ex. WW1/10**	Copy of letter dated 14.01.2010 issued by the management regarding engagement of Conductors.
11.	**Ex. WW1/11**	Copy of service record/appointment letter dated 19.11.2010 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 22.11.2010 to 18.02.2011.
12.	**Ex. WW1/12**	Copy of service record dated 21.02.2011 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 21.02.2011 to 20.05.2011.
13.	**Ex.WW1/13**	Copy of service record dated 13.11.2013 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 14.11.2013 to 13.11.2014.
14.	**Ex. WW1/14**	Copy of service record dated 15.12.2014 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 16.12.2014 to

		15.12.2015.
15.	**Ex.WW1/15**	Copy of service record dated 17.12.2015 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 18.12.2015 to 17.12.2016.
16.	**Ex. WW1/16**	Copy of office record dated 02.01.2017 issued by the management regarding engagement of workman Vipin Dagar as contractual conductor purely on Short Term basis w.e.f. 03.01.2017 to 02.01.2018.

12. In order to prove its case, management has examined Sh. Sandeep Kumar, Depot Manager, Dichaun Kalan Depot, New Delhi as MW1 and Sh. Pankaj Kumar, Manager (PLD-2 AND 3), Netaji Subhash Place Depot, Delhi as MW2.

13. This Tribunal shall decide the issue no. 1 along with issue No. 3. The findings on these issues are discussed in the following paragraphs.

ISSUE NO. 2

Whether the claim of the workman is not maintainable for want of espousal by the union? OPW

14. Onus to prove this issue was on the workman. Ld. AR for the management contended that the present dispute has not been espoused by the union. On the other side, Ld. AR for the workman submitted that the

workman is member of Delhi Labour Union and the said union has espoused the grievance of the workman.

15. In order to give jurisdiction to the appropriate government to refer the dispute to the Tribunal/Labour Court, it was essential for the workman to show that his individual dispute was sponsored or espoused by the union of the workmen. A dispute between an employer and a single employee cannot, by itself, be treated as an industrial dispute, unless it is sponsored or espoused by the Union of workmen or by a number of workmen. Reliance is placed on the judgment of the constitution bench of Hon'ble Apex Court in the case of *Workmen of Dharampal Premchand (Saughandhi) Vs. Dharampal Premchand (Saughandhi) Civil Appeal No.532/1963 wherein it is held as under:-*

> *"3. Section 2(k) defines an "industrial dispute" as meaning any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or nonemployment or the terms of employment or with the condition of labour, of any person. This definition shows that before any dispute raised by any person can be said to be an industrial dispute, it must be shown that it is connected with the employment or non-employment of that person. This condition is satisfied in the present case, because the dispute is in relation to the dismissal of 18 workmen, and in that sense, it does relate either to their employment or non-employment. The question however, still remains whether it is a dispute between employers and workmen. Literally construed, this definition may take within its sweep a dispute between a single workman and his employer, because the plural, in the context, will include the singular. Besides, in the present case, the dispute is in fact between 18 workmen on the one hand, and their employer on the other, and that satisfies the requirement imposed by the fact that the word "workmen" in the context is*

used in the plural. But the decisions of this Court have consistently taken the view that in order that dispute between a single employee and his employer should be validly referred under s. 10 of the Act, it is necessary that it should have been taken up by the Union to which the employee belongs or by a number of employees. On this view, a dispute between an employer and a single employee cannot, by itself, be treated as an industrial dispute, unless it is sponsored or espoused by the Union of workmen or by a number of workmen. In other words, if a workman is dismissed by his employer and the dismissed workman's case is that his dismissal is wrongful, he can legitimately have the said dispute referred for adjudication before an Industrial Tribunal under s. 10(1) of the Act, provided a claim for such a reference is supported either by the Union to which he belongs or by a number of workmen, vide Central Provinces Transport Services v. Raghunath Gopal Patwardhan MANU/SC/0067/1956 : (1957) ILLJ 27 SC and The Newspapers Ltd. v. The State Industrial Tribunal, U.P. MANU/SC/0078/1957 : (1957) IILLJ 1 SC."

16. In the present case, the workman has deposed in his evidence by way of affidavit (Ex. WW1/A) that he is a member of the Delhi Labour Union bearing Membership No. 54559, and that he has been paying subscription to the union. He further stated that he approached the Delhi Labour Union for redressal of his grievance regarding regularization and the difference of salary on the principle of "Equal Pay for Equal Work". He also deposed that a resolution was passed on 12.07.2017 to raise his industrial dispute.

17. The workman has relied upon the legal demand notice dated 28.07.2017 (Ex. WW1/1), postal receipts (Ex. WW1/2), AD Card (Ex. WW1/3), Statement of Claim before the Conciliation Officer (Ex. WW1/4), and

the resolution dated 12.07.2017 (Ex. WW1/5), whereby the Union decided to espouse the dispute of the workman.

18. Perusal of the resolution Ex. WW1/5 shows that the Delhi Labour Union resolved to take up the cause of the workman. On that basis, the Union issued the legal demand notice (Ex. WW1/1) and filed the claim petition before the Conciliation Officer. Since the dispute remained unsettled, the Appropriate Government referred the dispute for adjudication. It is settled law that there is no prescribed format for espousal. Reliance is placed on the judgment of the Hon'ble Supreme Court in J.M. Jhadav vs. Forbes Gokak Ltd., (2005) 3 SCC 202, wherein it was held as:

> *"……As far as espousal is concerned there is no particular form prescribed to effect such espousal. Doubtless, the Union must normally express itself in the form of a resolution which should be proved if it is in issue. However proof of support by the Union may also be available aliunde. It would depend upon the facts of each case. The Tribunal had addressed its mind to the question, appreciated the evidence both oral and documentary and found that the Union had espoused the appellant's cause. ……..."*

19. During cross-examination, WW1 denied the suggestion that he is not a member of any Trade Union though he admitted that he has not filed any subscription fee receipts. Notably, the Delhi Labour Union is a recognized union, and the management has not led any evidence nor has the union disowned the espousal of the dispute. Furthermore, the management did not put any question challenging espousal during cross-examination.

20. In view of the above discussion, the contention of the management that the present claim is not maintainable for want of espousal has no merit. Accordingly, Issue No. 2 is decided in favour of the workman and against the management.

ISSUE NO.1 AND 3

(1.) Whether the workman has no cause of action to file the claim? OPM
(3.) As per terms of reference

21. Issue Nos. 1 and 3 are connected and thus taken up together for decision. The question for consideration is whether demand for regularization of the workman as a Conductor with retrospective effect from the date of his initial appointment in the proper pay scale and payment of difference of salary on the "Principle of Equal Pay for Equal Work" is justified.

22. Ld. AR for the workman submitted that the workman was appointed on short term contract which is being renewed from time to time though he was entitled to be put on permanent post of conductor. She placed reliance upon the judgment of Allahabad High Court passed in *Ravi Karan Singh vs. State of U.P. and Ors., C.M.W.P. No. 39127* to substantiate her contention that appointment made on compassionate ground is to be treated as regular and permanent appointment because treating it as temporary appointment would defeat the very purpose of such appointment.

23. She further submitted that the management has committed unfair labour practice as enumerated in Section 2 (ra) read with item 10 of Fifth Schedule of the Industrial Disputes Act by employing the workman as a

muster roll employee and denying him the salary and status of a regular employee. She has placed reliance upon the judgment of Hon'ble Supreme Court titled as *Chief Conservator of Forest and Anr., (1996) 2 SCC 293)* and the judgment of Hon'ble Delhi High Court titled as *Project Dir. Dep. Of Rural Development v. Its Workmen, 2019 SCC On Line Del 7796.*

24. On the other hand, learned AR for the management submitted that the workman was employed on contractual basis and therefore he cannot claim regularization. He submitted that as per the minutes of the meeting dated 07.05.2010 convened between the PS to Hon'ble Finance Commissioner and CMD, DTC, which were circulated on 20.05.2010, recruitment was to be undertaken only with the approval of the Delhi Government, and it was decided that additional Drivers/Conductors in DTC would be appointed only on contractual basis so as to reduce the permanent financial liability of DTC. He further submitted that accordingly, in the year 2010, it was decided to engage conductors on short-term contracts for 89 days and thereafter for one year. Therefore, as per the terms of engagement, the workman is not entitled to claim regularization in DTC.

25. It is an admitted fact that Sh. Govinder Singh, father of the workman, was a regular Conductor with DTC and expired on 17.08.2009 during service. It is also admitted that the workman was appointed on contractual basis for a short term of 89 days from 22.11.2010 to 18.02.2011 vide appointment letter dated 19.11.2010 (Ex. WW1/11), which was renewed from time to time after short intervals.

26. According to the workman, he was given employment on compassionate grounds and therefore his appointment ought to be on regular basis. The management, however, contends that the appointment was purely contractual and therefore he is not entitled to regularization or monetary benefits on the principle of "Equal Pay for Equal Work".

27. Perusal of record shows that the management vide letter dated 14.01.2010 (Ex. WW1/10) invited applications from the dependents of deceased employees for engagement as a Conductor on short-term contract for six months, extendable on the basis of performance. On the basis of the said order Ex. WW1/10, the workman was initially engaged for 89 days and thereafter his contract was continuously renewed for the periods 22.11.2010 to 18.02.2011 (Ex. WW1/11), 21.02.2011 to 20.05.2011 (Ex. WW1/12), 14.11.2013 to 13.11.2014 (Ex. WW1/13), 16.12.2014 to 15.12.2015 (Ex. WW1/14), 18.12.2015 to 17.12.2016 (Ex. WW1/15) and 03.01.2017 to 02.01.2018 (Ex. WW1/16). Thus, the workman was working continuously with the management with only nominal breaks from 22.11.2010 till 02.01.2018.

28. During final arguments, it was brought to the notice of this Tribunal that the workman is still serving as a Conductor with DTC, meaning thereby, he has been continuously discharging duties of a Conductor. Despite this, he has not been regularized on the said post. Further, it is evident from the letter dated 14.01.2010 (Ex. WW1/10) that the application was invited from the workman as a dependent of a deceased employee, and therefore, his engagement was clearly on compassionate ground. The declaration of the workman contained in Ex. WW1/8 also shows that he had applied specifically for engagement on compassionate ground.

29. During cross-examination, the workman admitted that his appointment with DTC was contractual and that he had executed the agreement with DTC and admitted the agreement and affidavit dated 19.11.2010 (Ex. WW1/M1 colly). The management therefore argued that the workman knowingly agreed to work on contractual terms and cannot now claim regularization.

30. It is apparent from the bare reading of agreement dated 19.11.2010 (Ex. WW1/M1 colly) that the workman was engaged on contractual basis and was not supposed to raise any claim for regularization. He also admitted the execution of agreement and affidavit dated 11.01.2019 Ex. WW1/M2(colly) accepting contractual employment. However, it must be examined whether such acceptance of contractual employment deprives him of seeking regularization.

31. To determine this, it is essential to examine whether DTC could legally appoint the workman on compassionate grounds on a contractual basis. In Ravi Karan Singh vs. State of U.P. & Ors. 1992 (2) AWC 976, the Hon'ble Allahabad High Court held that appointment under dying-in-harness rules must be treated as permanent because if treated as temporary, it defeats the very purpose of compassionate appointment.

32. Similarly, in Praveen Kumar vs. State of U.P. & Ors., 2023 LiveLaw (AB) 277, it was held by Hon'ble High Court of Allahabad that compassionate appointment cannot be temporary; otherwise, the family continues to live under constant threat of termination and remains financially insecure. It was further held that the compassionate appointment can never be on a consolidated pay and it is always a permanent appointment in a regular pay-scale.

33. The ratio of the aforesaid judgments is that compassionate appointments cannot be temporary, otherwise the very object of providing immediate and permanent relief to the bereaved family is frustrated. Therefore, the appointment of the workman on compassionate ground on contractual basis was against settled principles of law.

34. In State of U.P. vs. Aishwarya Pandey, LL 2021 SC 766, the Hon'ble Apex Court affirmed that there cannot be two different pay scales for an employee appointed on compassionate grounds and one appointed on regular basis.

35. The Hon'ble Apex Court in *Sushma Gosai & Ors. vs. Union of India & Ors., AIR 1989 SC 1976* granted relief to a woman who was denied compassionate appointment after her husband's death, due to a subsequent ban on appointing women in the department. It was also held that administrative delays or subsequent policy changes could not retroactively impair accrued rights. In the absence of any post, the Hon'ble Apex Court also directed to create the post supernumerary to accommodate the Appellant.

36. The further argument of the management that the appointment was made contractual pursuant to minutes dated 07.05.2010 to reduce financial liability is also not legally sustainable, as it clearly reveals an intention to deprive legitimate rights of a compassionate appointee. This Tribunal is of the considered view that the management sought to avoid financial liability by retaining the workman on minimum wages. Were the workman regularized, the management would be required to pay him salary and benefits equivalent to that of other permanent employees. Reliance is placed on the judgment of the Hon'ble Supreme Court in

Chief Conservator of Forests vs. Jagannath Maruti Kondhare (1996) 2 SCC 293.

37. Regarding the contention of workman to pay him difference in salary on the principle of "Equal pay for Equal Work", the management has placed reliance on Secretary, State of Karnataka vs. Uma Devi (2006) 4 SCC 1. However, the said judgment has been distinguished in Sheo Narain Nagar vs. State of U.P., (2018) 13 SCC 432, wherein the Hon'ble Supreme Court held that Uma Devi is being misapplied by governments to exploit ad-hoc/contractual workers.

38. Recently, in Dharam Singh vs. State of U.P., 2025 SCC Online SC 1735, the Hon'ble Supreme Court held that when duties are perennial, work cannot be extracted for decades from daily wagers citing lack of sanctioned posts. Thus, when work is permanent and perennial, refusal to regularize cannot be justified.

39. Further, the Hon'ble Supreme Court in Dhirendra Chamoli & Ors. vs. State of U.P., (1986) 1 SCC 637 held that workers performing identical duties must receive the same salary and service conditions.

40. When the workman has been performing duties of a Conductor continuously, the management cannot justify treating him as a daily-wage or contractual employee. Accordingly, refusal to regularize the workman from the date of his initial appointment on compassionate ground constitutes unfair labour practice under Section 2(ra) read with Item 10 of the Fifth Schedule to the Industrial Disputes Act.

41. In the considered opinion of this Tribunal, despite being eligible for compassionate appointment, the workman was deliberately appointed on contractual basis, which is not legally tenable and was intended to

deprive him of legitimate service rights. Accordingly, both the aforesaid issues stand decided in favour of the workman and against the management.

RELIEF

42. In view of the above, workman is entitled for appointment on compassionate ground as a regular employee on the post of Conductor instead of contractual employee with retrospective effect i.e. from the date of his initial appointment i.e. 22.11.2010 in regular pay scale with all consequential benefits. The management is directed to implement the award within 30 days of its publication, failing which the management will be entitled to pay interest @8% per annum from the date of reference i.e. 08.08.2018 till final payment is made. The award is passed accordingly.

43. Copy of award be sent to the appropriate government for publication. File be consigned to record room.

Announced in open Tribunal on 27.11.2025.

Manjusha Wadhwa
Digitally signed by Manjusha Wadhwa
Date: 2025.11.27 16:48:13 +0530

(MANJUSHA WADHWA)
Presiding Officer Industrial Tribunal-I
Rouse Avenue Court, New Delhi.