BEFORE THE COURT OF SH RAKESH KUMAR SHARMA
PO : LABOUR COURT : KKD : DELHI

DID 02/12.
Unique ID No.02402C0006912012.

Ms. Meenu Rani
D/o Sh. Ashok Kumar,
R/o 4146/66, Reghar Pura,
Karol Bagh, New Delhi-110005.

.....**Claimant**

Versus

M/s. Municipal Corporation of Delhi.
Through Its Commissioner
Civic Centre, Dr. Shama Prasad Marg,
Minto Road, Delhi.

.....**Management**

DATE OF FILING : 05.01.2012.
ARGUMENTS CONCLUDED ON :
AWARD PASSED ON : 10.09.2014.

AWARD :-

1. This is a direct industrial dispute filed by the claimant u/s 2 A of the Industrial Disputes Act (hereinafter "the Act") against the management.

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2. In her **claim**, it is submitted by the claimant that vide order dated 29.11.2007 passed by the management, the claimant was appointed on the post of Assistant in I.T. Department for a period of 180 days as a daily wager. She was performing the duties of perennial nature but was treated as a daily wager by the management. She has worked for more than 240 days in the last preceding year in the service. Vide order dated 02.12.2010, the management extended the services of claimant till 26.11.2010. After the said extension order dated 02.12.2010, no other service extension order was passed by the management. On 09.05.2011, the management passed an order, whereby services of the claimant were directed to be treated as contractual basis till 31.05.2011. The order was passed to harass and humiliate the claimant. On the same day i.e. on 09.05.2011, the Standing Committee issued a notification approving creation of 13 Group 'C' category posts in I.T. Department of the management and among them three posts belonged to the LDC. The claimant was performing the duties similar to and identical with the duties of LDC. However, she was designated as Assistant only to deprive her legal rights. Fresh hands have been appointed on the post of LDC without

considering the claimant for the same. The claimant served a legal notice dated 24.05.2011 on the management which was neither replied nor complied by the management. The claimant raised an industrial dispute on 30.05.2011 in apprehension of her termination. After receiving the notice from the Court, the management issued an illegal memo dated 28.05.2011 to the claimant. The memo is also illegal as it has been given the same number as given to one Sh. Ram Kripal by making cuttings in the despatch register by Sh. Brahmanand Puri, AO (IT) in his own handwriting. Sh. Puri is having personal grudges against the claimant on account of objections raised by her against unparliamentary language used by Sh. Puri against her. Thus, Sh. Puri has committed forgery and fabrication. Further, Sh. Puri is also using official car for his personal purpose and, for this purpose, forging signatures of various employees including the claimant. When the claimant refused to sign the log book of the car, Sh. Puri got annoyed and threatened her of dire consequence. Passing of the order dated 09.05.2011 by the management itself is illegal. No memo or chargesheet or any notice was ever served upon the claimant before termination of her services on 31.05.2011 illegally. No opportunity of being heard was ever given to her before her illegal

termination, in complete violation of principles of natural justice. The claimant has not committed any misconduct whatsoever. In case of any alleged misconduct, no enquiry has been conducted by the management. No compensation was either offered or paid to the claimant. Hence, the termination is in violation of Section 25-F of the Act. Several employees junior to the claimant have been retained in service at the time of illegal termination of the services of the claimant. Hence, the termination is also in violation of Section 25-G of the Act. Other fresh hands have been engaged by the management for the work being done by the claimant. Hence, the termination is also in violation of Section 25-H of the Act. No prior permission has been taken by the management from the appropriate government before terminating the services of the claimant. Hence, the termination is in violation of Section 25-N of the Act. No seniority list was displayed by the management before terminating the services of the claimant. The termination also amounts to unfair labour practice. The claimant is unemployed from the date of her illegal termination despite her best efforts. The claimant has sought quashing of orders dated 09.05.2011 and 28.05.2011 issued by the management and a direction to the management to appoint the

claimant on the post of LDC or to reinstate her on the post of Assistant with full back wages from the date of her illegal termination.

3. The management has contested the claim by filing a **Written Statement**. As preliminary objections, it is submitted that after induction of computerization in the management, to mitigate the immediate burden, the I.T. department engaged some Assistants on contract basis for entering data in computers. The claimant, along with some other persons, was engaged for a specific purpose and for specific period from time to time purely on contract basis which she duly accepted. No recruitment procedure was followed by the management to engage these Assistants nor they were engaged on any permanent sanctioned post. In fact, there is no sanctioned post with the nomenclature of Assistant in the management. The claimant was engaged as 'Assistant' in I.T. Department on daily wages @ Rs.152.42 per day initially for a period of 180 days. She was also given time to time specific sanctions of 89 days as per requirement of the work. The contract period of the claimant came to an end on 31.05.2011. Thereafter, there was no requirement and no extension was received

from the competent authority. The claimant was engaged against the specific contract. After the expiry of contract, her services automatically came to an end. As per Section 2(oo)(bb) of the Act, such non-renewal of contract cannot be termed as retrenchment or termination. Even otherwise, the Hon'ble Supreme Court has held that daily wager has no right to claim reinstatement and their disengagement, if any, is not arbitrary since they were temporary employees working as daily wager and their disengagement from service cannot be treated under the Act and that the Courts should abstain from ordering reinstatement, regularization or re-employment of daily wager. There are prescribed recruitment rules for the post of LDC as per which, LDC is appointed after passing the competitive (written and typing) examination conducted by the Delhi Subordinate Service Selection Board. The claimant has never passed the written and typing examination conducted every year by the DSSSB. The impugned order dated 09.05.2011 is not the termination letter but is an engagement / contractual letter vide which it is specified that the claimant has been engaged for the specific period on contractual basis till 31.05.2011 only. The letter was accepted by the claimant who joined the duties with the management without any protest and

performed her duties on contract basis. Since, no retrenchment has been done by the management, no question of displaying the seniority list arises. The other contents of the claim are denied by the management who has sought dismissal of the claim.

4. In her **rejoinder**, it is admitted by the claimant that she was engaged as Assistant in I.T. Department on daily wages @ Rs. 150.42 per day initially for a period of 180 days. The other contents of the written statement are denied by the claimant who has reiterated the contents of her claim. The claimant has submitted that she worked for more than 240 days with the management and hence her employment cannot be said to be a contractual one. She was not a daily wager. The Hon'ble Supreme Court has deprecated the stand taken by the employers that the employee was merely daily wager or short term or casual employee when in fact he was doing the work of regular employee.

5. From the pleadings of the parties, following **issues** were framed :-

1. Whether the services of the workman have been

terminated illegally by the management? OPW.

2. *Whether the case of the workman is covered under Section 2(oo) (bb) of the Industrial Disputes Act and, thus, there is no termination? OPM.*

3. *Relief.*

6. The claimant examined herself as the only **witness** (WW1) in support of her case. The management failed to lead any evidence. Its evidence was closed by the order of the Court.

7. Written **arguments** were filed by the claimant, who relied upon the following **authorities** in support of her contentions :-

a) ***MANU/SC/0281/2010, Anoop Sharma vs Executive Engineer, Public Health Division No.1 Panipat Haryana;***

b) ***MANU/SC/0166/2010, Krishan Sigh vs Executive Engineer, Haryana State Agricultural Marketing Board, Rohtak (Haryana);***

c) ***MANU/SC/0060/2010, Harjinder Singh vs Punjab State Warehousing Corporation;***

d) ***MANU/SC/0261/2003, S.M. Nilajkar and Ors. Vs Telecom, District Manager, Karnataka;***

e) ***MANU/SC/1544/1998, MCD vs Praveen Kumar Jain and Ors;***

f) *Judgment of Hon'ble Delhi High Court dated 20.1.14 in W.P (C) 8144/2007, Municipal Corporation of Delhi vs Laxmi Devi;*

g) *Manu/DE/0391/2013, Sunder Sigh vs P.O. Industrial Tribunal-I & Anr.;*

h) *Judgment of Hon'ble Delhi High Court dated 25.08.11in W.P. (C) 6024/199, MCD vs POLC and Anr.;*

i) *MANU/DE/8297/2006, Delhi Cantonment Board vs Central Govt. Industrial Tribunal and Ors;*

j) *MANU/DE/0463/2000, Management of Horticulture Department of Delhi Adm. vs Trilok Chand &Anr.;*

k) *MANU/DE/4375/2012, Haryana Roadways, Delhi Vs. Thana Ram;*

l) *MANU/PH/0107/1994, Bhikku Ram S/o Sh. Lalji vs The Presiding Officer, Industrial Tribunal-cum-Labour Court.*

8. I have gone through the record including the written arguments filed by the claimant as well as the authorities relied upon by her. None appeared for the management to advance arguments.

9. My **issues-wise findings** are as follows :-

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Issue No. 1 & 2.

10. Issues No. 1 & 2 are being taken up together as both are inter-related. Whereas the burden of proving issue No. 1 was on the claimant, the burden of proving issue No. 2 was on the management. However, there cannot be any doubt that the initial burden of proving her case was on claimant as it is she who has approached the Court.

11. In her affidavit filed as examination-in-chief, the claimant has fully supported her case as stated in the claim and relied upon her appointment letter as Ex. WW1/1, list of Municipal Employees in the Department of Information Technology as Ex. WW1/3, salary register as Ex. WW1/4, copy of order dated 09.05.2011 passed by the management impugned in the present claim as Ex.WW1/5, last extension order dated 02.12.2010 as Ex. WW1/6, notification dated 09.05.2011 creating three posts belonging to LDC as Ex. WW1/7, her job satisfaction letter as Ex. WW1/8, legal notice as Ex. WW1/9, memo dated 28.05.2011 as Ex. WW1/10, letter dated 28.05.2011 issued by the management as Ex. WW1/11, copy of dispatch register in respect of entry number 6432 dated 28.05.11 as

Ex. WW1/12, copy of car bill as Ex. WW1/13 and copy of conciliation proceedings as Ex. WW1/14. Although, in her affidavit, Ex. WW1/2 is stated to be attendance register, the exhibit number has been put by the claimant on her joining report.

12. At the time the claimant tendered her affidavit in evidence and exhibited the documents, an objection was raised by ld. Authorized Representative for management that the original documents were not produced. At that time itself, it was submitted by ld. ARW that the claimant had already filed an application seeking a direction to the management to produce these very documents. The objection was kept open at that time with the direction that same shall be decided at the time of final disposal of the case. The record reveals that application was allowed vide order dated 28.05.2014 directing the management to produce all the documents mentioned in the application. The management failed to produce any document in compliance of the order. These very documents have been exhibited by the claimant. Since the management failed to produce the documents despite direction of the Court, an inference is liable to be drawn against the management that the documents are the same as

produced by the claimant. Hence, the objection of the management in this regard is overruled.

13. The testimony of the claimant goes unrebutted, uncontroverted and unchallenged as there is no cross examination of the claimant.

14. It has been held by Hon'ble Punjab and Haryana High Court in ***MANU/PH/0107/94 Bhikku Ram' Vs. Presiding Officer, Industrial Tribunal-cum-Labour Court*** relied upon by the claimant as follows :-

> *"35 From the above, it is clear that termination of service of a workman, who has worked under an employer for 240 days in a period of twelve month preceding the date of termination of service will ordinarily be declared as void if it is found that the employer has violated the provisions of Section 25F(a) and (b). If the employer resists the claim of the workman and invokes Section 2 (oo)(bb), burden lies on the employer to show that though the employee has worked for 240 days in twelve months prior to termination of his service, such termination of service cannot be treated as retrenchment because it is in accordance with the terms of the contract of employment or on account of non-*

renewal of the contract of employment. It has also to be shown by the employer that the workman had been employed for a specified work and the job which was being performed by the employee is no more required. Only a bona fide exercise of right by and employer to terminate the service in terms of the contract of employment or for non-renewal of the contract will be covered by Clause (bb). If the Court finds that the exercise of rights by the employer is not bona fide or the employer has adopted the methodology of fixed term employment as a conduct or mechanism to frustrate the rights of the workman, the termination of the service will not be covered by the exception contained in Clause (bb). Instead the action of the employer will have to be treated as an act of unfair labour practice, as specified in the Fifth Schedule of the Act. The various judgments rendered by the different High Courts and by the Supreme Court clearly bring out the principle that only a bona fide exercise of the powers by the employer in cases where the work is of specified nature or where the temporary employee is replaced by a regular employee that the action of the employer will be upheld. In all other cases, the termination of service will be treated as retrenchment unless they are covered by other exceptions set out hereinabove.

36. We may now revert back to the facts of this case. Admittedly, the petitioner had served for about three years. The work against which the petitioner had been engaged was not of a specified nature or of fixed

duration. That work did not cease to exist on the date of termination of service of the petitioner. The job which was being performed by the petitioner continued to be required by the employer. This has been conclusively established that the employer did engage two persons after termination of the petitioner's service. The reasons for the termination of the service of the petitioner held out by Sahib Ram in his statement, namely, that the workman had committed embezzlement in 1986, is patently false because after 1986 the petitioner continued to be employed for one year. Therefore, the allegation of embezzlement could not be related to the termination of service of the workman brought about on June 24, 1987. In view of all this, it must be held that the employer has not exercised his right to terminate the service of the petitioner in good faith. Rather the power vesting in the employer to dictate the terms of employment has been misused by it. Merely because the petitioner accepted the oppressive, unreasonable and arbitrary conditions of service, he cannot be denied relief despite the fact that the respondent-society committed a patent violation of Section 25 F. In our considered view the award passed by the Labour Court suffers from an error of law and deserves to be set aside.

(underlining by me).

15. It is clear from the authority that where a claimant has worked under an employee for more than 240 days during the year

immediately preceding the date of his / her termination and the management has terminated his / her services without complying with Section 25-F (a) and (b) of the Act, the termination is liable to be declared as void. Further, in case the employer resists the claim of such a claimant invoking Section 2(oo) (bb) of the Act, the burden is on the employer to show that (a) the claimant was employed for a specified work, (b) the job which was being performed by the claimant is no more required, and (c) the termination is in accordance with the terms of the contract of employment or on account of non-renewal of the contract of the employment. All these three conditions are to be proved by the employer / management. It is only where the work is of specific nature or where a temporary employee is replaced by a regular employee and the power u/s 2(oo) (bb) has been exercised bona fide by the employer, the action of the employer is to be upheld and in all other cases, the termination is to be treated as retrenchment unless it is covered by other exceptions as mentioned in Section 2(oo) of the Act.

16. It is not disputed between the parties that the claimant worked with the management till 31.05.2011 when her services were

terminated. In her claim, it is specifically stated by the claimant in para 1.5 of her claim that she worked for more than 240 days in the last preceding year. In reply to this para, the management in its written statement, has stated that " *that the contents of para 1.5 are immaterial. It is submitted that the claimant was engaged against the specific periods from time to time as per the requirement of the work*". It is clear that the contention of the claimant that she worked for at least 240 days during the year immediately preceding her termination is not specifically denied by the management. Hence, the same is deemed to be admitted by it. Hence, it is held that the claimant worked for more than 240 days during the year immediately preceding the date of her termination.

17. It is nowhere the case of the management that it complied with Section 25 F (a) and (b) of the Act on 31.05.2011 when as per the claimant, her services were terminated and as per the management, her services came to an end.

18. As held in the authority ***Bhikku Ram*** (supra), the burden of proving that the case of the claimant is covered u/s 2(oo) (bb) of

the Act was on the management.

19. In her claim, it is specifically stated by the claimant that she was performing the work of perennial nature and that artificial breaks were given to her by the management only to deprive her of her legal rights as per law. In this regard, in its written statement, it is submitted by the management that the claimant along with some other persons was engaged for entering data in computers after introduction of computerization in the management.

20. In her affidavit filed as examination-in-chief, the claimant specifically stated that she was performing the duties of perennial nature and that the artificial breaks were given by the management only to deprive her of her legal right as per law. The testimony of the claimant goes unrebutted, unchallenged and uncontroverted, as there no cross examination of the claimant at all.

21. Hence, the burden of proving that claimant was engaged for the aforesaid purpose and that the purpose no longer exists was on the management.

22. As noted above, no evidence has been led by the management.

23. Hence, there cannot be any doubt that the management has failed to prove issue No. 2.

24. In its written statement, the management has relied upon ***Himanshu Kumar Vidarath Vs. State of Bihar JT 1997 (4) SC 560*** to contend that the daily wager has no right to claim reinstatement and there disengagement, if any, is not arbitrary since they were temporary employees working as daily wager. In this regard, it has been held by the Hon'ble Delhi High Court in ***Management of Horticulture Department of Delhi Administration Vs. Trilok Chand and Anr. 2000 I AD (Delhi) 416*** relied upon by the claimant as follows :-

> *"Notwithstanding the aforesaid position in law Mr. Anil Grover, learned counsel appearing on behalf of the petitioner argued that respondent is not to be treated as workman and is not entitled to the benefit of the provisions of Section 25-F of the Act and in support of*

his submission, he tried to draw sustenance from another judgment of Supreme Court in the case of Himanshu Kumar Vidyarthi and others Vs. State of Bihar and others reported in .... In this case, decided by a Division Bench, no doubt certain observations were made by the Supreme Court which give the impression that temporary working of daily wages... would not be considered to be re-trenched under the Act. However, a close look would show that the case was mainly decided on the ground that the concerned department namely, Cooperative Training Institute, deogarh was not to be treated as "industry" within the meaning of Section 2(j) of the Act and further in this case Supreme Court did not take into consideration the earlier case decided by it holding to the contrary and as noticed above. Not only this even in the following subsequent judgments, Supreme Court has taken the view that provision of Section 25-F would be applicable even in a case of daily rated workman. These cases are :

1. *Rattan Singh Vs. Union of India MANU/SC/1746/1997 :(1997)11SCC396.*
2. *Municipal Corporation of Delhi Vs. Praveen Kumar Jain MANU/SC/1544/1998:(1998) IILLJ674SC.*
3. *Samishta Dubey Vs. Etawah reported in 1999 460 (SC).*

20. In view of the aforesaid restatement of law as recent as in 1999 as well, I respectfully follow the same in preference to the view expressed in the case of

Himanshu Kumar Vidyarthi and others Vs. State of Bihar and others (supra). Accordingly, this point is also decided against the petitioner."

(underlining by me)

25. Hence, with great respect, I am of the view that the authority relied upon by the management is not applicable to the facts of the present case.

26. In view of the above discussion, it is held that the termination of the services of the claimant is in violation of Section 25-F of the Act.

27. As far as violation of Section 25-G of the Act alleged by the claimant is concerned, neither in her claim nor in rejoinder nor in her affidavit filed as examination in chief, the name / particulars of a single person, who was junior to the claimant but was retained has been mentioned by the claimant. It may be mentioned here that in its written statement, the management has contended that there was no question of displaying the seniority list as there was no retrenchment of the claimant. It is clear that it is not the case of the management

that no seniority list was maintained by it. On the application of the claimant, the management was directed to produce a number of documents. However, the claimant never sought a direction to produce such seniority list, if any, maintained by the management.

28. Similarly, as far as violation of Section 25-H of the Act alleged by the claimant is concerned, again neither in the claim nor in the rejoinder nor in her affidavit filed as examination-in-chief, name / particulars of a single person who was appointed by the management in place of the claimant after her termination to do the same work which the claimant was doing, have been given.

29. In her written arguments, it is submitted by the claimant that since the management has not cross examined her on her affidavit filed as examination-in-chief, her statement in respect of violation of Section 25-G and H of the Act is deemed to be admitted by the management. I do not find any force in the contention. No such law has been shown to me by the claimant.

30. Even otherwise, I am of the view that the case of the

claimant must stand on its own legs and she cannot take advantage of the weakness of the case of the management. Except the self-serving statement of the claimant, there is nothing on record to show that any person junior to the claimant was retained by the management at the time of terminating the services of the claimant or any fresh hands who engaged by the management after her termination. This self-serving statement alone, in my considered view, is not sufficient to discharge the burden of proving her case in this regard, which was on the claimant. Hence, the claim of the claimant for violation of Section 25-G & H of the Act is liable to be dismissed.

31. As far as violation of Section 25-N of the Act alleged by the claimant is concerned, Section 25-N falls in Chapter V-B of the Act and not in Chapter V-A of the Act in which Sections 25-F, G & H fall. As per Section 25-K of the Act, Chapter V-B is applicable only to an industrial establishment in which not less than 100 workmen were employed on an average per working day for the preceding 12 months. Neither in her claim nor in her rejoinder nor even in her affidavit filed as examination-in-chief, it is the case of the claimant that at least 100 workmen were employed on an average per

working day for the preceding 12 months with the management. Hence, the claim, in so far it alleges violation of Section 25-N of the Act, is also liable to be dismissed.

32. In view of the above discussion, it is held that the services of the claimant have been terminated by the management in violation of Section 25-F of the Act only. Hence, the said termination is illegal. Both the issues are, therefore, decided in favour of the claimant and against the management.

Issue No. 3. Relief.

33. In its written statement, it is specifically submitted by the management that the claimant was appointed without passing any examination. This fact has not been specifically denied by the claimant in her rejoinder. Hence, the same is deemed to be admitted by her. It is nowhere her case in her affidavit filed as examination-in-chief that she was appointed after passing some tests / examination. The management is a government authority. Appointments to the management are on the basis of competitive tests conducted by

concerned authorities. Hence, it is held that the appointment of the claimant was not as per the procedure for appointment of employees in a local authority like the management.

34. In her affidavit filed as examination in chief, the claimant has nowhere claimed that she is unemployed, much less that she made any efforts for finding a job after her termination.

35. In her claim, it is specifically stated by the claimant that she was appointed vide order dated 29.11.2007. In its written statement, this fact has not been specifically denied by the management. Hence, the same is deemed to be admitted. Accordingly, it is held that claimant was engaged vide order dated 29.11.2007. As per Ex. WW1/4 (salary register) filed by the claimant herself, her date of joining is 03.12.07.

36. It is contended in the written statement that the claimant was not in continuous employment of the management since 29.11.2007. As noted above, it is the specific case of the claimant that she worked continuously with the management since 29.11.2007

except for the artificial breaks given to her by the management to deprive her of various legal rights. The periods during which the claimant worked continuously with the management and the periods during which she did not work continuously have not been specifically stated by the management. There cannot be any doubt that the management must be having documents in this regard. Mere denial is no denial in the eyes of the law. Since the management has failed to specify the periods during which the claimant did not work continuously with the management since 29.11.2007 till her termination, the averment of the claimant in her claim that she worked continuously with the management during this period except for the artificial breaks given by the management is deemed to be admitted by the management. Even otherwise, in her application seeking a direction to the management to produce documents mentioned in the application, the claimant sought inter-alia all extension orders of the claimant. As noted above, the management failed to produce the documents despite specific directions of the Court. There cannot be any doubt that a copy of the extension orders must be in possession of the management. Hence, an adverse inference is liable to be drawn against the management for not

producing all such extension orders. The inference is that such extension orders, if produced would have gone against the management. In other words, they would have shown that the claimant was in continuous employment of the management since 29.11.2007 till her termination except for the artificial breaks given by the management. In any case, Ex. WW1/14 placed on record by the claimant includes :-

(a) Extension order dated 28.05.2008 extending services of the claimant w.e.f. 03.06.2008 to 30.08.2008.

(b) Extension order dated 30.09.2008 extending services of the claimant w.e.f. 01.09.2008 to 29.11.2008.

(c) Extension order dated 03.12.2008 extending services of the claimant w.e.f. 02.12.2008 to 28.02.2009.

(d) Extension order dated 06.03.2009 extending services of the claimant w.e.f. 03.03.2009 to 30.05.2009.

(e) Extension order dated 07.07.2009 whereby services of the claimant were extended w.e.f. 02.06.2009 to 29.08.2009.

Further, as per Ex. WW1/6, services of the claimant were extended w.e.f. 01.06.2010 to 28.08.2010 and w.e.f. 30.08.2010 to 26.11.2010. As per Ex. WW1/5, she served the management w.e.f. 30.08.2010 to

31.05.2011. Accordingly, it is held that the claimant worked with the management continuously from 29.11.2007 till her termination except for the artificial breaks given by the management. The contention of the management in this regard is rejected.

37. Hence, on the date of termination, she had worked for just about 3 & ½ years.

38. After her termination, it is now more than 03 years.

39. One of the objects of the Act is to promote industrial peace. I have held above that the management has terminated the services of the claimant illegally. The claimant has levelled allegations of forgery and manipulation of records etc. against Sh. Brahmanand Puri, an officer in the management. It is not necessary for me to go into the validity / otherwise of such allegations. The fact remains that after such allegations and counter allegation, relationship between the management and the claimant are bound to be strained, in case the claimant is reinstated.

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40. In view of the above discussion, I am of the view that it is not a fit case where the claimant should be reinstated and thus the claimant is entitled only to compensation in lieu of reinstatement etc.

41. In her affidavit filed as examination-in-chief, the claimant relied upon a copy of salary register as Ex. WW1/4. As per Ex. WW1/4, the last drawn wages paid to the claimant were Rs.248 per working day for 15 days period from 16.10.2010 to 15.11.2010.

42. Keeping in view the totality of the facts and circumstances of the case, I am of the view that interest of justice is best met if a compensation of Rs.1,00,000/- (Rupees One Lac) is given to the claimant in lieu of reinstatement etc.

43. I have gone through the other authorities relied upon by the claimant. There cannot be any dispute about the propositions of law laid down in the authorities, but it is a settled law that each case must be decided according to its own facts. I am of the considered view that facts in the present case are materially different from those in these authorities. Hence, in my considered view, none of these

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authorities is applicable to the facts of the present case.

44. Coming to costs, I have held above that the services of claimant were terminated illegally by the management. It has further been held that artificial breaks were given by the management without any justification. The management also took the plea of applicability of Section 2(oo) (bb) without any basis. It failed to lead any evidence to prove the said defence nor did it cross examine the claimant. Even one of the authorities relied upon by the management in its written statement has been held by me, as above, to be not applicable to the facts of the present case. The management is a local authority, an instrumentality of the State, which cannot be expected to work like this and, certainly, in violation of law. Hence, I am of the view that it is a fit case where exemplary costs should be imposed on the management. Accordingly, a cost of Rs.50,000/- (Rupees Fifty Thousand only) is imposed on the management.

45. The management is directed to pay both the amounts (the compensation as well as the costs) to the claimant within one month from the date of publication of this award failing which it shall be

liable to pay interest @ 9 per cent per annum from today till realization / payment on both.

47. The requisite number of copies of the award be sent to the Government of NCT of Delhi for publication of the award. File be consigned to Record Room.

Dictated to the Steno and announced in the open Court on 10.09.2014.

(RAKESH KUMAR SHARMA)
POLC/KKD/DELHI/XVII.