

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

+ **Writ Petition (Civil) No.15698/2006**

Date of Decision : 17.03.2009

Delhi Jal Board

.....Petitioner

Through: Mr. Suresh Tripathi,
Advocate

Versus

Its Workman (Sri Balbir Singh)

..... Respondent

Through: Mr. Anuj Aggarwal,
Advocate

CORAM :

HON'BLE MR. JUSTICE V.K. SHALI

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| 1. | Whether Reporters of local papers may be allowed to see the judgment? | NO |
| 2. | To be referred to the Reporter or not ? | NO |
| 3. | Whether the judgment should be reported in the Digest ? | NO |

V.K. SHALI, J. *(Oral)*

1. This is a writ petition filed by the Delhi Jal Board against the award dated 27th September, 2002 passed by Labour Court-VI in ID No.795/1998 titled The Management of Delhi Water Supply & Sewage Disposal Undertaking (MCD) Vs. Its Workman Sri Balbir Singh.

2. By virtue of the aforesaid award, the learned Labour Court had held that not only the termination of services of Balbir Singh by the petitioner/management was illegal but he was also entitled to the same pay scale which was being granted to the regular Beldars on the doctrine of equal pay for equal work. The

petitioner/management has challenged the said award on the ground that the learned Labour Court has grossly erred in passing the aforesaid award on account of the fact that there is a distinction between a casual Beldar and a regular Beldar and apart from the fact that the petitioner had not been able to establish that he had completed 240 days of continuous working in a year with the petitioner/management.

3. The respondent has filed its counter affidavit and contested the claim of the petitioner. I have heard the learned counsel for the parties and perused the record.

4. Before considering the submissions of the learned counsel for the petitioner, they have to cross the hurdle of showing that the present writ petition is filed within a reasonable time. A perusal of the record shows that although the award was passed on 27th September, 2002, the present writ petition has been filed exactly after four years thereafter, i.e. on 28th September, 2006. It is repeatedly laid down by the Apex Court that although in writ petitions, there is no period of limitation prescribed, but nevertheless the principles of limitation prescribed under the Limitation Act broadly will govern the period for filing the writ petition. Reliance in this regard can be placed on the case titled ***State of M.P. Vs. Bhailal Bhai AIR*** 1964 SC 1006 wherein the Supreme Court had observed as under:

“the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. It appears to us however that the maximum period fixed by the Legislature as the time within which the relief by a suit in the Civil Court must be brought may

ordinarily be taken to be a reasonable standard by which the delay in seeking remedy under Article 226 can be measured. This Court may consider the delay unreasonable even if it is less than the period of limitation prescribed for a Civil action for the remedy but where the delay is more than the period it will almost always be proper for the Court to hold that it is unreasonable.”

5. A perusal of the aforesaid authority would clearly show that there is no straight jacket or formula for the purpose of exercise of discretionary jurisdiction of writ in a given case. The petitioner who comes to court seeking invocation of the writ jurisdiction must show that there has been no inordinate delay in approaching the Court. In the instant case, the very fact that the award was passed on 27th September, 2002 and the writ petition has been filed only on 28th September, 2006, i.e. the expiry of four years, ex facie shows that there has been an inordinate delay and laches in filing the writ petition. It also shows that the finding of the learned Labour Court was accepted by the petitioner/management both with regard to the termination and the grant of equal pay to the respondent/workman. It seems that the wisdom has dawned late on the petitioner to challenge the said award. The petitioner as a public body can ill-afford to sleep over its right in case it feels aggrieved by an award passed by the Labour Court. There is no justification or explanation given by the petitioner in the entire writ petition as to why the public body did not deem it proper to come to the Court earlier or what were the reasons which prevented it to approach the Court earlier.

6. In the absence of the same, the Court is of the view that the writ petition is hit by delay and laches and accordingly the same is dismissed.

No order as to costs.

V.K. SHALI, J.

March 17, 2009
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