

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

+ **Writ Petition (Civil) No.19105/2005**

Date of Decision : 22.04.2009

Municipal Corporation of DelhiPetitioner
Through: Mr. Ayush Gupta, Advocate

Versus

Smt. Baso Devi 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? | YES |
| 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. The petitioner has challenged the award dated 21st June, 2001 passed by the Industrial Tribunal No.-III in ID No. 172/1996 in case titled **The Management of M/s Municipal Corporation of Delhi Vs. Baso Devi**. By virtue of the impugned award the learned Tribunal has held that Smt. Baso Devi is entitled to be regularized on the post of Ward Aya in the proper scale from her initial date of appointment i.e. 8th September, 1983 and as a consequence of the same, she is entitled for her wages at par with regular employees from her date of appointment and other consequential benefits. It has been further held that she is entitled to hold the residential accommodation allotted to her retired husband.
2. The petitioner/ management feeling aggrieved by the aforesaid award has filed the present writ petition. Notice to show cause was

issued on 30th September, 2005 and on the same date the operation of the impugned order was stayed and it has continued thereafter.

3. The respondent/workman has filed its counter affidavit and in the counter affidavit one of the preliminary objections which has been raised is regarding the maintainability of the writ petition on the ground that the writ is highly belated and hit by laches. For this purpose, the respondent/workman has averred that the award was passed on 21st June, 2001 which was published on 1st March, 2002 and became enforceable from 31st March, 2002. While as the writ petition has been filed on 22nd September, 2005 and thus there is an inordinate delay of more than three years in challenging the award which has been totally unexplained in the writ petition.

4. A perusal of the order sheet shows that after the notice was issued repeated adjournments were taken on behalf of the petitioner. Firstly to file rejoinder and yet the same was not filed.

5. On the last date of hearing none was present on behalf of the petitioner and even on a date prior to that the matter was adjourned on the request of the learned counsel for the petitioner. Today also the learned proxy counsel Mr. Ayush Gupta prays for an adjournment on the ground that the main counsel Ms. P.L. Gautam is out of station as his brother is contesting the election.

6. Keeping in view the fact that the matter is pending since 2005 and for one reason or the other the same is being adjourned, there is absolutely no justification for adjourning the matter further, accordingly, the request for adjournment is disallowed.

7. I have heard the learned counsel for the respondent as well as the learned proxy counsel for the petitioner and have also gone through the record carefully.

8. The writ petition is ex-facie inordinately delayed and hit by laches. This is on account of the fact that the award is passed on 21st June, 2001 granting the benefit of regularization and the consequential benefits thereof to the respondent/workman on the said date. The award is published on 1st March, 2002 and becomes enforceable on 31st March, 2002. Even if the period for filing the writ is reckoned from 31st March, 2002, the writ petition has been filed only on 22nd September, 2005 that is after expiry of 3 ½ years. There is absolutely no justification given by the petitioner which is a statutory body as to why it kept sleeping over the matter for such a long period of time and did not assail the award earlier. Since there is no explanation given by the petitioner, therefore, the present writ petition is trying to rake up the stale claim which is barred by inordinate delay and laches.

9. It has also been stated by the learned counsel for the respondent/workman at the bar that the petitioner has already recovered the differential of the arrears of pay from the date of her appointment till the order dated 31.3.2003 in terms of the award. To that extent the award also stands implemented. Keeping in view the aforesaid facts, I feel that this is a writ without any merit and the same is accordingly dismissed on the ground of inordinate delay and laches.

No order as to costs.

V.K. SHALI, J.

APRIL 22, 2009
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