

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 140/2013**
JAI BHAGWAN & ORS.

..... Appellant

Through: Mr. Anuj Aggarwal, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Ms. Saroj Bidawat, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V.K. JAIN

ORDER
% **05.03.2013**

CM 3882/2013 (exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

CM 3881/2013 (delay)

This is an application for condonation of delay of 179 days in filing the appeal.

In view of the submissions made therein, the application is allowed and the delay in filing the appeal is condoned.

The application stands disposed of.

LPA 140/2013

The appellants before us raised an industrial dispute alleging illegal termination of their services by the respondent. The said dispute being referred to the Labour Court for adjudication, the said Court vide award dated 24.12.2002 held that though they had failed to prove that the termination of their services by the respondent was illegal and consequently, no relief was granted to them. Being dissatisfied with the award of the Labour Court, the appellants filed a petition being W.P.(C) No.4872/2003 challenging the said award.

2. In its counter affidavit, the respondent stated that the appellants were appointed as Daily Wagers for a limited purpose of keeping watch and ward at PVC Market, Jwalapuri and were paid fixed wages which was revised from time to time under the Minimum Wages Act. Since the aforesaid PVC Market, Jwalapuri was closed down as per the directions of this Court for shifting of the said market, services of the appellants were terminated with effect from 13.12.1998.

3. The learned Single Judge noted that it was an admitted position that the appellants kept on working till 13.1.1999 and the amount mentioned in the order terminating their services was offered to them only on 8.3.1999. She further noted the admitted position that no seniority list was displayed by the respondent either on 13.1.1999 or at an early date at the place of work of the appellants or at any other place. The learned Single Judge took the view that there was nothing on record to show that the appellants were aware of the fact that they were employed on a scheme or project which was

to come to an end and relying upon the decision of the Supreme Court in **S.M. Nilajkar and Ors. Vs. Telecom District Manager, Karnataka** [(2003) 4 SCC 27)] and **Anoop Sharma Vs. Executive Engineer, Public Health Division No.1 Panipat (Haryana)** [(2010) 5 SCC 497)] and also noticing that at the time of retrenchment neither one month's salary nor the compensation equivalent to 15 days' average pay for every completed year of service or any part thereof was paid to the appellants, allowed the writ petition. However, instead of directing their reinstatement, the learned Single Judge awarded compensation of Rs.75,000/- each to the appellants.

4. We have heard the learned counsel for the parties and have examined the relevant record. The contention of the learned counsel for the respondent is that since the appellants were appointed to work on a particular project i.e. watch and ward of the PVC Market, Jwalapuri and the said market having been shifted, thereby bringing the project on which the appellants were engaged to an end, the learned Single Judge was not justified in allowing the writ petition. In our view, the contention raised by the learned counsel for the respondent cannot be considered for the simple reason that no appeal against the order of the learned Single Judge having been filed by the respondent, the said order has become final and cannot be questioned in this appeal filed by the workmen.

5. The only question which arises for our consideration in this case is as to whether considering the view taken by the learned Single Judge holding violation of the provisions of Industrial Disputes Act, the appellants are entitled to reinstatement with or without back-wages or whether the compensation awarded to them needs suitable enhancement.

6. The learned counsel for the appellants on instructions states that the appellants will not press for their reinstatement if the compensation awarded to them is suitably enhanced. According to the learned counsel for the appellant, the appropriate amount of compensation to be awarded to the appellants should be Rs.4 lac each.

7. It is not in dispute that the appellants worked with the respondent for about three years i.e. from 28.3.1996 to 13.1.1999. The services of the appellants were dispensed with more than 14 years ago. Considering all the facts and circumstances of the case, including the nature of employment of the appellants, the period of service rendered by them and the time period which has lapsed since their services were dispensed with, we are of the considered view that the respondent should pay compensation of Rs.2 lac each to all the appellants. We ordered accordingly. The appeal stands disposed of. The payment in terms of this order shall be made within four weeks from today.

CHIEF JUSTICE

V.K. JAIN, J

MARCH 05, 2013

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LPA 140/2013

page 4 of 4