

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

+ **W.P.(C.) No. 5365/2005**

Date of Decision: 25th September, 2009

THE MANAGEMENT OF AIR FORCE GOLDEN JUBILEE INSTITUTE
..... PETITIONER

Through: Mr. R. Kaul, Administrative Officer with
Ms. Rekha Palli, Advocate

VERSUS

\$ ASHOK KUMAR & OTHERS RESPONDENTS

Through: Mr. K. Prabhakar Rao, Advocate.

CORAM:
Hon'ble MR. JUSTICE S.N. AGGARWAL

1. Whether reporters of Local paper 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**

S.N.AGGARWAL, J (ORAL)

There are seven workmen in this case and they are respondents No. 1 to 7. Respondent No. 3 is reported to have expired and his widow has been substituted as his legal heir in the present matter. Respondent No. 4 Mr. Mahesh Kumar is stated to be employed elsewhere which fact is admitted by Mr. K. Prabhakar Rao, learned counsel appearing on behalf of the respondents. Mr. K. Prabhakar Rao, submits that he is not insisting for reinstatement of respondent No. 4 because of his gainful employment elsewhere. As far as the widow of respondent No. 3 is concerned, she has to be paid wages admissible to her deceased husband under Section 17-B till the date of his death.

2. Ms. Rekha Palli, learned counsel appearing on behalf of the petitioner, on instructions from her client, says that wages due to

deceased respondent No. 3 under Section 17-B till the date of his death will be paid to his widow, who may collect the same from the office of the petitioner. Since respondent No. 3 has died during the pendency of the present proceedings, the question of his reinstatement does not arise. Now, we are left with five workmen and they are respondents No. 1, 2, 5, 6 & 7. The award impugned by the petitioner management in this writ petition directs their reinstatement with back wages. These workmen were engaged by the management of the petitioner as daily wagers. They continued to work with the petitioner management as daily wagers till they were terminated from service in 29.09.1995.

3. During pendency of the proceedings in the present writ petition, Mr. K. Prabhakar Rao, learned counsel appearing on behalf of the respondents, on instructions of his clients, suggested that his clients are ready to forego their claim for back wages if the petitioner agrees to reinstate them in its service on the same terms and conditions on which they were working at the time of their termination. On the last date, i.e. 24.09.2009, Ms. Rekha Palli, learned counsel appearing on behalf of the petitioner, took an adjournment to seek instructions from her client on the above proposal given on behalf of the respondents No. 1, 2, 5, 6 & 7.

4. Mr. R. Kaul, Administrative Officer, is present on behalf of the petitioner. Ms. Rekha Palli, learned counsel appearing on behalf of the petitioner, on instructions from her client, submits that respondents No. 1, 2, 5, 6 & 7 will be reinstated in service by the petitioner management as daily wagers on the same terms and conditions on which they were working at the time of termination in 1995.

5. The counsel for both the parties submit that all these workmen are working at present with the petitioner management in lieu of order under Section 17-B. But now since the parties have amicably settled their

dispute, the respondents No. 1, 2, 5, 6 & 7 will be treated as daily wagger employees of the petitioner management for all intents and purposes. Needless to state that respondents No. 1, 2, 5, 6 & 7 will be subject to the discipline of the petitioner management and will be bound by its rules and regulations governing appointment of daily wagers. It is made clear that respondents No. 1, 2, 5, 6 & 7 will not be entitled to any back wages prior to the date they had resumed work with the petitioner management. The respondent No. 4 will have no right either for reinstatement or for back wages since the said claim on his behalf has been given up by the counsel appearing on his behalf. The impugned award insofar as it relates to respondent No. 4 is concerned, the directions for his reinstatement and back wages contained in the said award are quashed. The petitioner shall pay wages under Section 17-B to the widow of the deceased respondent No. 3 till the date of death of her husband within a period of four weeks from today.

6. The impugned award insofar as it relates to respondents No. 1, 2, 3, 5, 6 & 7 is concerned, the said award stands modified as stated above.

This writ petition stands disposed of in terms referred above.

SEPTEMBER 25, 2009
'BSR'

S.N.AGGARWAL, J