

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C.) No. 11655/2009**
% **Date of Decision: 14th September, 2009**
SH. DHURENDER SINGH PETITIONER
! Through: Mr. K.P.S. Chauhan, Advocate.

VERSUS

\$THE STATE OF NCT OF DELHI & ORS. RESPONDENTS
^ Through: Mr. P.C. Sen, 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)

The petitioner in this writ petition seeks to challenge an industrial award dated 28.02.2009 by which termination of his service from the management of NDMC has been found to be legal and justified.

2 Heard on admission.

3 The petitioner was employed as a daily wager peon under Executive Engineer (Electrical), NDMC w.e.f 25.10.1990. He intermittently worked for very short period till his services were dispensed with by the NDMC w.e.f. 26.06.1992. Admittedly, he had not completed 240 days of continuous service in the year preceding the date of his impugned termination. The appointment of the petitioner was as daily wager without following the procedure for regular appointment. The respondent NDMC is a statutory body created under the enactment of the Parliament. A person appointed as daily wager in such organization as back-door

entry has no legal right particularly when he had not completed even 240 days of continuous service in the year preceding the date of his impugned termination.

4 In *Secretary, State of Karnataka & Others vs Umadevi & Others 2006 (4) Scale Page 197*, it was observed by the Hon'ble Supreme Court as under:

“The workman who has been employed against the rules and procedures were not entitled for regularization in the service. As has been held that while appointments are made on temporary or casual, courts are swayed by the fact that the concerned person has worked for sometime and in some cases for a suitable length of time. It is not as if a person who so accept the engagement either temporary or casual in nature is not aware of the nature of his employment, he accepts the employment with the eyes open, it may be true that he is not in a position to bargain..... It would not be appropriate to jettison the constitutional scheme of employment. This would be creating another mode of appointment which is not possible.”

5 In view of the above law laid down by the Hon'ble Supreme Court in Uma Devi's case (Supra) and also having regard to the reasons given in the impugned award of the court below, I do not find any infirmity, perversity or illegality in the said award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. This writ petition therefore fails and is hereby dismissed in limine.

**September 14, 2009,
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S.N.AGGARWAL, J