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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6400/2015, CM No.11665/2015
NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Prabhsahay Kaur, Adv.

versus

AJAY KUMAR Respondent
Through: Mr. Umesh Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER
% **11.03.2016**

We have heard counsel for the petitioner. We do not find any reason to interfere with the impugned order dated 30th September, 2014 passed in OA No.1419/2012.

The respondent was engaged as daily wager Ward Boy on 12.12.1995. His services were terminated on 13.3.1996.

The respondent raised an industrial dispute and by Award dated 18.1.2001 his termination was set aside with a direction that the respondent was entitled to re-instatement with full back wages.

The petitioner challenged the said Award in WP(C) No.2849/2002 which was disposed of vide order dated 4.2.2005 recording as under:-

“... The aforesaid judgments clearly apply to the facts of the present case. There is a clear finding by the Labour Court that juniors to the petitioner have been retained in

service. However, since the petitioner is Municipal Corporation of Delhi and taking into consideration the nature of public employment involved and the fact that prior to the MCD approaching to this Court in 2002, in respect of the impugned award certain recoveries were made and certain payments were also made under Section 17-B of the ID Act, no further payment as a consequence of the award shall be made to the respondent/workman subject to his being reinstated on or before 2nd April, 2005. For this purpose the respondent is directed to report for duty to the Medical Superintendent, Hindu Rao Hospital, New Delhi on 2nd April, 2005 at 10.00 AM. The petitioner Corporation will be at liberty to act in accordance with law.”

The petitioner is right in his contention that as per this order the respondent was directed to report for duty on 2nd April, 2005 and that the respondent would not be entitled to back wages other than the payments which had already been paid under Section 17(B) of the Industrial Dispute Act. But this order would not compel us to upset and set aside the impugned order.

The grievance of the respondent was that other daily wagers who had worked during the period from 1.4.1994 to 31.3.1996 were regularized w.e.f. 1.4.2003. The respondent was admittedly engaged on 12.12.1995. However, the petitioners were treating the respondent as regularized w.e.f. 2nd April, 2005, unlike his colleagues who were treated as regularized w.e.f. 1.4.2003.

The impugned order has only directed that the respondent should be treated at par with other co-workers. We do not think that the order of this Court dated 4.2.2005 in WP(C) No.2849/2002 can be read as an order which had the effect of denying the said benefit to the

respondent. The order was silent on this aspect and question. It refers to the date of joining duty and that the respondent would not be entitled to back wages. The Award by which the respondent was re-instated is dated 18.1.2001.

Looked from all angles, we find no reason to interfere with the impugned order. The writ petition is dismissed.

SANJIV KHANNA, J

ASHUTOSH KUMAR, J

MARCH 11, 2016/ak