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

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+ **LPA 191/2019**

NORTH DLEHI MUNICIPAL CORPORATION Appellant
Through: Ms Biji Rajesh, Advocate for Mr
Gaurang Kanth, Advocate.

versus

RAJBIR Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE I.S.MEHTA

ORDER
% **18.03.2019**

CM 12601-12602/2019 (exemption)

1. Allowed, subject to all just exceptions.

LPA 191/2019 CM 12600 (stay)

2.This appeal is directed against the order dated 20th February, 2019 passed by the learned Single Judge disposing of the Appellant's writ petition being W.P.(C) No.1739/2019 challenging an Award dated 24th March, 2018 passed by the Industrial Tribunal.

3. The facts in brief were that the Respondent who was working as a Mali in the Municipal Corporation from 27th January, 1984 was terminated from service on 24th March, 1985. He raised an industrial dispute in which, apart from seeking reinstatement, he also sought regularization of his services along with back-wages from the date of his initial appointment.

4. By the Award dated 19th September, 2002, the Tribunal came to the conclusion that the Respondent had been wrongly terminated. However, the Tribunal granted him back-wages only from the date of his approaching it for relief i.e. from 4th April, 1991. The operative portion of the Award reads as under:

“18. As regards question of payment of back wages is concerned, there is nothing on record to show that workman was gainfully employed during the intervening period but as per his own case the workman had remained silent during the period of termination of his service i.e. w.e.f. 25.03.85 till the date of issuing of demand notice i.e. 4.4.91. Accordingly, I. am of the opinion that the workman concerned is not entitled to any wages during this period. However, the workman is entitled for his reinstatement with continuity of service with full back wages w.e.f. 4.4.1991 onwards. Award is passed.

Reference answered accordingly.”

5. The plea of the Appellant is that not only are the back-wages payable only from 4th April, 1991, but even the continuity of service of the Respondent would reckon only from that date. The learned Single Judge has not agreed with the above submission of the Appellant.

6. Having heard learned counsel for the Appellant, this Court is not persuaded to hold otherwise. Indeed, while the back-wages are payable only from 4th April, 1991, as far as the continuity in service is concerned, it should be reckoned from the date of the Respondent's initial appointment. No error has been committed by the learned Single Judge in the impugned order.

7. The appeal is accordingly dismissed, but in the circumstances, with no orders as to costs. The pending application is disposed of.

S. MURALIDHAR, J.

I.S. MEHTA, J.

MARCH 18, 2019
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