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

+ LPA 474/2025, CM APPL. 45514/2025-Stay, CM APPL. 45515/2025-Exp, CM APPL. 45516/2025-Lengthy synopsis and list of dates

MUNICIPAL CORPORATION OF DELHIAppellant
Through: Mr. Anand Prakash, SC for MCD
with Ms. Varsha Arya, Adv.
versus
MAYANKRespondent
Through: Mr. Chirayu Jain, Adv.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
29.07.2025

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1. By way of the present appeal under *Clause X* of the Letters Patent, the appellant/ Municipal Corporation of Delhi (**MCD**) seeks to challenge the order dated 13.05.2025 passed by the learned Single Judge (***impugned order***) in CM APPL.28858/2025 and 28859/2025 in W.P.2003/2024, whereby the MCD has been directed to deposit the entire amount in terms of the Award dated 18.09.2023 passed by the learned Presiding Officer, Industrial Tribunal-I, Rouse Avenue District Courts, New Delhi (***Industrial Tribunal***) as also the litigation expenses.
2. The brief facts leading to the present appeal revolve around the issue of regularization of one late Shri Mangal Singh, the father of the respondent, who was engaged as a *Chowkidar* in the MCD since the year 1990, and whose juniors, also engaged in identical work, were regularized in the year 1994-95, as well as the date, effect and consequential benefits of such



regularization.

3. The Industrial Tribunal, *vide* the Award dated 18.09.2023 came to a conclusion that late Shri Mangal Singh is entitled for regularization in service on the post of *Chowkidar* from 01.04.1995, i.e. the date of regularisation of his juniors engaged in identical work in accordance with the policy of the MCD with all consequential benefits, monetary or otherwise. Further, late Shri Mangal Singh was also held entitled to the difference of salary on the principle of '*equal work, equal pay*' from his date of employment to the date of his regularisation, as well as his widow and legal heir (respondent herein) were held entitled to all consequential and death-cum-retiral benefits.

4. The said Award is presently the subject matter of challenge in W.P.(C) 2003/2024 preferred by the MCD which is pending adjudication before the learned Single Judge.

5. When the said writ petition first came up for hearing, the learned Single Judge, *vide* order dated 13.02.2024, recorded the submissions on behalf of the MCD that the Industrial Tribunal could not have granted regularization to late Shri Mangal Singh as late Shri Mangal Singh was a 'leave substitute' and not a 'daily wager' like his co-workers, and the policy of regularization of the MCD did not permit regularization of a workman who was engaged on a 'leave substitute' basis. Further, since late Shri Mangal Singh became a 'daily wager' only on 04.06.2007 that too for a period of just 89 days, therefore, he could not have been awarded any benefit prior to the said date. Recoding the said contention, the learned Single Judge issued notice in the said writ petition, as well as directed the operation of the Award dated 18.09.2023 to be kept in abeyance till further



orders.

6. It was in this backdrop, i.e. when the application seeking stay filed by the MCD was yet to be disposed of, a fresh application, being CM APPL. 28858/2025 and CM APPL. and 28859/2025 were filed before the learned Single Judge by the respondent seeking deposit of the amount as per the Award dated 18.09.2023 and litigation expenses respectively. It was under the said circumstances that the learned Single Judge *vide* the impugned order directed the MCD to deposit the entire amount as per the Award dated 18.09.2023 and disposed of both the said applications.

7. It is the contention of learned counsel for the MCD that once an order directing abeyance of the Award dated 18.09.2023 till further orders has been passed on 13.02.2024, without disposing of the application for stay filed by the MCD, the learned Single Judge could not have virtually reversed the earlier order by subsequently directing the MCD to deposit the amount as per the aforesaid Award *vide* the impugned order.

8. Learned counsel for the respondent appearing on advance service raised a preliminary objection on the maintainability of the present appeal stating that the impugned order, being interim in nature, is not a 'judgment' and, therefore, a Letters Patent appeal could not have been filed by the MCD against the same. In support of thereof, learned counsel seeks to rely upon the order dated 09.01.2025 passed by a Division Bench of this Court in ***Municipal Corporation of Delhi v. Krishan Kumar & Ors.*** [2025:DHC:321-DB] wherein, considering the dicta of the Apex Court in ***Shah Babulal Khimji v. Jayaben D Kania*** [(1981) 4 SCC 8], the Letters Patent appeal was dismissed at the outset.

9. This Court, having heard learned counsels for the parties and perused



the record, is not a position to accept the aforesaid contentions raised on behalf of the MCD. More so, since the Apex Court in ***Shah Babulal Khimji (supra)*** has observed as under:-

“115. Thus, in other words every interlocutory order cannot be regarded as a judgment but only those orders would be judgments which decide matters of moment or affect vital and valuable rights of the parties and which work serious injustice to the party concerned. Similarly, orders passed by the trial Judge deciding question of admissibility or relevancy of a document also cannot be treated as judgments because the grievance on this score can be corrected by the appellate court in appeal against the final judgment.”

(emphasis supplied)

10. The aforesaid judgment has been repeatedly followed by Courts of law, including by the Apex Court in ***Life Insurance Corporation of India v. Sanjeev Builders Pvt. Ltd.*** [(2018) 11 SCC 72], amongst others, holding that interlocutory orders which decide matters of moment and affect vital rights of the parties and which work serious injustice to the party concerned also amount to ‘judgements’ which can be challenged in LPA.

11. In terms of the said judgments, it is clear that any order which affects the rights of a party would be a ‘judgement’, and consequently stand open to challenge in Letters Patent Appeal.

12. In the present case also, since the learned Single Judge has ‘disposed of’ the two applications *vide* the impugned order, and the rights of the parties have been determined thereby, therefore, there is no doubt in our minds that the same can be challenged in LPA. Therefore, in view of the law laid down in ***Shah Babulal Khimji (supra)*** the present Letters Patent appeal is maintainable before us and the judgment of the Division Bench in ***Krishan Kumar & Ors. (supra)*** is not applicable, more so, since the appeal therein was against an *ad interim* order passed in the very same application



without a final disposal therein, whereas in the present case, there are different applications involved and the earlier application for stay was already pending at the time of passing of the impugned order by the learned Single Judge. In any event, the applications have been decided in the impugned judgment.

13. Be that as it may, in view of the aforesaid, and especially as the matter is listed for hearing before the learned Single Judge on 19.09.2025, the learned Single Judge is requested to make an endeavour to dispose of the said application for stay on the next date of hearing, if not the main writ petition.

14. It is made clear that this Court has not made any observation on the merits of the writ petition or the accompanying applications, as to whether the respondent is entitled to the entire amount awarded *vide* the Award dated 18.09.2023 and the litigation expenses or not.

15. With the above observations, the present appeal is disposed of.

SUBRAMONIUM PRASAD, J.

SAURABH BANERJEE, J.

JULY 29, 2025/bh