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

% Reserved on : 05.08.2026
Pronounced on : 03.11.2026
Uploaded on : 03.11.2026

CNR No. DLHC010079732023

\+ **W.P.(C) 2928/2023, CM APPLs. 11427/2023, 49238/2024**

MUNICIPAL CORPORATION OF DELHI .....Petitioner
Through: Ms. Namrata Mukim, SC for MCD with Ms. Niharika Singh, Advocate, with Mr. Ram Kishan Bharti, Assistant Director (Education)

versus

SMT. MUNNI DEVI & ANR ...Respondents
Through: Mr. Triloki Pandit, Advocate for Respondent No. 1.
Ms. Soumitra Chatterjee, Mr.Vipul Gupta, and Mr. Manish, Advocates for Respondent No.2

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present writ petition has been filed by the Municipal Corporation of Delhi (hereinafter, MCD) under Articles 226 and 227 of the Constitution of India, assailing the award dated 11.10.2022 passed by the learned Presiding Officer, Labour Court-IV, Rouse Avenue District Courts, New Delhi, in LIR No. 100/2020.

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Vide the impugned award, respondent no. 1/ *Smt.Munni Devi* was held entitled to reinstatement in service on the post she was occupying at the time of termination, along with full back wages w.e.f. 16.01.2019, i.e. the date of termination, till the date of the impugned award, andconsequential benefits.

2. Notably, respondent no. 1 was originally engaged by the erstwhile East Delhi Municipal Corporation (hereinafter "EDMC"), which, upon the reunification of the three municipal corporations of Delhi with effect from 22.05.2022, stands merged into MCD.

3. Respondent no. 1 claimedthat she had been engaged as an "*Aaya*" in an English medium nursery school at C-Block, *Krishna Nagar*, Delhi(hereinafter the "School") with effect from 12.08.2014 and was drawing monthly wages @Rs.10,000/-. According to her, despite having completed the requisite period of continuous service, her services were terminated illegally on 16.01.2019, without notice or compliance with the statutory requirements. She accordingly raised an industrial dispute seeking reinstatement, continuity of service, back wages, and other consequential benefits.

4. The dispute was referred for adjudication under Sections 10(1)(c) and 12(5) of the Industrial Disputes Act, 1947. The reference required the Labour Court to determine whether an employer-employee relationship existed between EDMC and respondent no. 1, whether the termination of her services was illegal or unjustified and, if so, the relief to which she was entitled. The reference was as follows :-

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> "*Whether there existed an employer employee relationship between the management No.1 & 2 and Smt. Munni Devi W/o Sh. Mukesh Kumar and if so, whether services of said Smt. Munni Devi have been terminated illegally and or unjustifiably by the management; and if so, to what sum of money as monetary relief alongwith other consequential benefits in terms of existing Laws/Govt. Notification and to what other relief is he entitled and what directions are necessary in this respect?*"

5. The Labour Court, *vide* order dated 10.09.2021, framed the following issues for adjudication:

> "*(i) (1) Whether the workman is entitled to the relief claimed in statement of claim? OPW.*
> *(ii) As per the (2) In terms of reference. OPW*
> *(iii) (3) Relief.*"

6. Upon consideration of the evidence led by the parties, the Labour Court answered the reference in favour of respondent no.1/ *Smt. Munni Devi*, holding that she had established her employment with EDMC and that EDMC had failed to justify the termination of her services. Consequently, the Labour Court directed her reinstatement to the post she was holding at the time of termination, with full back wages from 16.01.2019 until the date of the award, along with consequential benefits. It further directed EDMC to pay the amount accrued in her favour within three months from the date of publication of the award, failing which the amount would carry interest @ 9% per annum from the date of accrual until final payment.

7. Learned counsel for the petitioner contends that respondent no. 1 was engaged on a daily-wage basis for the specific purpose of executing the work contemplated under the Memorandum of Understanding dated 12.08.2014 executed between EDMC and respondent no. 2, M/s. Frigorifico Allana Pvt. Ltd. (hereinafter the

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"MOU"). It is contended that respondent no. 1 was not appointed against a sanctioned post and that her engagement was not made through the prescribed recruitment process. According to the petitioner, the engagement was linked to specific execution of work under the MOU and could not be treated as regular employment with EDMC.The petitioner further submits that the salaries of Class IV employees were paid from the funds provided by respondent no. 2, which stopped releasing funds from September 2018 and subsequently terminated the MOU. It is, therefore, contended that respondent no. 1's engagement came to an end with the termination of the MOU. It is also contended that respondent no. 1 had accepted payment of her earned wages during the conciliation proceedings.

8. *Per contra*, learned counsel for respondent no. 1 submits that that the respondents services of respondent no. 1 were terminated illegally on 16.01.2019, without notice or compliance with Sections 25F, 25G, and 25H of the Industrial Disputes Act, 1947. It is further submitted that she had completed more than 240 days of service in the preceding year.

9. The principal issue is whether the Labour Court erred in holding that respondent no. 1 was an employee of EDMC, despite the MOU.

10. The MOU provided that EDMC would be exclusively responsible for the administration, control, management, and maintenance of the School. It further stipulated that the appointment, management and payment of salaries of the teaching and non-teaching staff would be the responsibility of EDMC. On the other hand, respondent no. 2 was to assist in upgrading the School by providing

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the necessary equipment, furniture, toys, and other accessories, and would have no control over the running or operation of the School.

11. The Supreme Court, in *General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon v. Bharat Lal*[1], identified two relevant tests for determining whether a workman was directly employed by the principal employer: whether the principal employer paid the wages and whether it controlled and supervised the work. These tests must be applied in light of the evidence on record.The relevant extractfrom the aforesaid decision is reproduced hereinbelow:-

> "*10. …Two of the well-recognised tests to find out whether the contract labourers are the direct employees of the principal employer are: (i) whether the principal employer pays the salary instead of the contractor; and (ii) whether the principal employer controls and supervises the work of the employee.* ***In this case, the Industrial Court answered both questions in the affirmative and as a consequence held that the first respondent is a direct employee of the appellant.***"
>
> *(emphasis supplied)*

12. In the present case, the engagement letter dated 12.08.2014 described respondent no. 1 as a daily-wage Nursery *Aaya*, with a consolidated monthly remuneration of Rs.10,000/-, payable from the funds of the School provided by respondent no. 2, but without describing her as an employee of respondent no. 2 or of a contractor. MW-1/*Smt. Raj Kumari* acknowledged that MCD/EDMC had issued a cheque for Rs.28,710/- towards three months'earned wages. Further, the office order dated 28.08.2014 authorised payment of monthly remuneration of Rs.10,000/- to three Nursery *Aayas* and one Security

[1] (2011) 1 SCC 635

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Guard, subject to the condition that no payment would be made during the summer and winter breaks. These documents, read with the termsof the MOU, which placed the administration and management of the School staff with EDMC, support the finding that respondent no. 1's engagement and payment of wages were directly connected with EDMC's administration of the School. Accordingly, the first test laid down in *Bengal Nagpur Cotton Mills* (*supra*) stands satisfied.

13. The second test concerns control and supervision over the work performed. The MOU expressly placed the administration, control, and management of the School, including the appointment and management of its staff, with EDMC. The responsibility for payment of salaries and emoluments also rested with EDMC. These contractual terms support respondent no. 1's case that her engagement was under the management of EDMC and was not that of an employee engaged and supervised by respondent no. 2. The fact that respondent no. 2 subsequently discontinued its assistance and terminated the MOU *vide* letter dated 29.12.2018 does not alter the nature of the employment relationship that existed during respondent no. 1's engagement.

14. The petitioner's contention that respondent no. 1 was not appointed against a sanctioned post or selected through the prescribed recruitment process does not, by itself, negate the employer-employee relationship established on the basis of the evidence on record. The Labour Court found that respondent no. 1 had completed 240 days of service in the preceding year and that EDMC had failed to establish compliance with the applicable statutory requirements at the time of termination. It further found that EDMC had not established that

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respondent no. 1 was gainfully employed elsewhere. Likewise, the mere acceptance of earned wages during conciliation does not establish that respondent no. 1 had accepted the termination as lawful or relinquished her claim for relief. These findings, considered alongside the two tests laid down in *Bengal Nagpur Cotton Mills*(*supra*), support the conclusion reached by the Labour Court.

15. The challenge to the impugned award must be examined within the limited scope of the supervisory jurisdiction of this Courtunder Articles 226 and 227 of the Constitution of India. In *Syed Yakoob v. K.S. Radhakrishnan*[2], the Supreme Court held that the power of judicial review does not permit the High Court to reappreciate evidence merely because another view is possible. Interference is warranted only where the findings suffer from a jurisdictional error or a patent error of law, or are otherwise vitiated in law.

16. Having considered the terms of the MOU, the engagement letter, the office order dated 28.08.2014, and the evidence referred to in the impugned award, this Court finds no sufficient ground to interfere with the findings of the Labour Court. The petitioner's reliance on the cessation of funding, termination of the MOU, and the absence of a sanctioned post must be considered alongside the evidence concerning respondent no. 1's engagement and the statutory requirements governing termination of her services. The grant of reinstatement and back wages must also be examined in light of the findings recorded by the Labour Court and the limited scope of

[2] AIR 1964 SC 477

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judicial review under Articles 226 and 227 of the Constitution of India.

17. Consequently, this Court finds no ground to interfere with the impugned award dated 11.10.2022. The writ petition is dismissed and the award is upheld.

18. It is noted that, pursuant to the order dated 13.07.2023 passed by this Court, the petitioner deposited an amount of Rs.2,24,500/- with the Registrar General, being 50% of the back wages. In view of the dismissal of the writ petition, the amount deposited, with accrued interest, shall be released to respondent no. 1.The petitioner shall pay the balance amount payable under the impugned award to respondent no.1 within a period of four weeks from today.

19. The pending applications stand disposed of in the above terms.

(MANOJ KUMAR OHRI)
JUDGE

NOVEMBER03, 2026
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