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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 21.10.2024
Judgment pronounced on: 22.10.2024

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W.P.(C) 9339/2024**SMT. SATYAWATI****.....Petitioner****Through: Mr. Dheerendra Kumar, Advocate****versus****MUNICIPAL CORPORATION OF DELHI****.....Respondent****Through: Dr. Divya Swamy, Standing Counsel
with Ms. Nidhi Kumar, Advocate****CORAM:****MR. JUSTICE GIRISH KATHPALIA****J U D G M E N T****GIRISH KATHPALIA, J. :**

1. By way of this writ action, the petitioner has assailed the Labour Court Award dated 08.07.2022 passed by the learned Presiding Officer, Labour Court-07, Rouse Avenue District Court, New Delhi, whereby the Labour Court Reference pertaining to the now deceased husband of the petitioner was answered against the workman and his Statement of Claim was dismissed. On issuance of notice, the respondent MCD entered appearance through counsel. I heard learned counsel for both sides and examined the records.

2. Briefly stated, the circumstances relevant for present purposes are as follows.



2.1 The Deputy Labour Commissioner sent to the Labour Court the following Reference dated 30.01.2014 for adjudication in respect of the Industrial Dispute between the workman Shri Sundar and the management MCD:

“Whether demand of workman Sh. Sundar s/o Late Amar Singh for reinstate with the continuity of service, backwages, with all consequential benefits is legal or justified and if so, to what relief is she entitled and what directions are necessary in this respect.” (sic.)

2.2 On issuance of notice of the Reference, the workman Shri Sundar filed his Statement of Claim on 24.02.2014 before the Labour Court, pleading that his earlier Statement of Claim dated 30.04.2011 filed before Labour Court, Karkardooma Courts was dismissed vide Award dated 11.07.2013, granting him liberty to file fresh claim before the Conciliation Officer, which he filed, leading to the present Reference; that he had been working with the management MCD as *Badli (Awazidar)* with effect from 01.12.1993 to 08.04.2007 and thereafter as daily wager till he was appointed as a permanent worker in MCD; that he was regularized as *Safai Karamchari* in the MCD with effect from 09.04.2007, but by way of subsequent letter dated 17.02.2010 of MCD, he was informed that the regularization order was bogus and forged; that he had completed continuous service of more than 240 days in each calendar year across a period of more than 15 years, but his services were illegally terminated with effect from 19.02.2010; that the respondent management ignored his legal notice dated 24.03.2011.

2.3 On service of notice on the said Statement of Claim, the management MCD appeared before the Labour Court and filed written statement on



19.09.2014, denying all the pleadings of the workman. The management MCD specifically pleaded that it is the workman Shri Sundar who had been absconding from work as substitute *Safai Karamchari* because he had submitted forged documents dated 09.04.2007 and 08.04.2007, regarding which the management conducted an inquiry and on finding more cases of similar nature, the matter was referred to the Economic Offences Wing, Crime Branch, Delhi Police.

2.4 The workman Shri Sundar filed a rejoinder before the Labour Court, denying the pleadings of the management and reaffirmed his Claim.

2.5 The Labour Court, after framing formal issues vide order dated 27.10.2014 posted the matter for trial. But the workman Shri Sundar opted not to lead any evidence on the next two dates of hearing. Thereafter, on 17.08.2015 the workman was partly examined in chief and his further testimony was deferred at his request because he had not brought the documents to be proved in evidence. After that various opportunities were granted to the workman but he neither completed his own chief examination nor adduced any other evidence. On 02.08.2019, the workman Shri Sundar alongwith his authorized representative appeared before the Labour Court and by way of specific statement that he did not want to examine any other witness, closed his evidence. During pendency of the Labour Court proceedings, the workman Shri Sundar passed away on 21.07.2020 and was substituted with his legal representatives. Even the respondent management opted not to lead any evidence and stopped appearing, so were proceeded against ex-parte. After hearing the authorized representatives of both sides,



the Labour Court passed the impugned award, thereby answering the Reference against the workman and dismissing his Statement of Claim.

3. Hence, the present writ petition.

4. During final arguments, learned counsel for both sides took me through the above records. Learned counsel for petitioner (*widow of the workman*) contended that the Labour Court had disallowed the workman to lead evidence, which led to the impugned award. On the other hand, learned counsel for respondent management referred to the order dated 02.08.2019, whereby the workman's evidence was closed on his own statement in presence of his authorized representative.

5. It is trite that mere chief examination of a witness is not evidence insofar as the evidence is constituted by chief examination, cross examination and re-examination, if any. Present is a case in which even chief examination was not completed. As reflected from record, after part examination in chief, it is the workman who took adjournment since he had not brought the documentary evidence to be proved on record, but thereafter across various adjournments he opted not to step back into the box to conclude his testimony. And finally, the workman appeared alongwith his authorized representative before the Labour Court and by way of specific statement closed his evidence.

6. As submitted by learned counsel for respondent management, it cannot be ruled out that having realized about his forged appointment



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documents, the workman Shri Sundar decided to abandon the litigation and closed his evidence.

7. I find no infirmity in the impugned award, so the same is upheld and the present petition is dismissed.

**GIRISH KATHPALIA
(JUDGE)**

OCTOBER 22, 2024/as