

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 820 OF 2022  
(Arising out of SLP (C) No. 31201 of 2015)

NORTH DELHI MUNICIPAL CORPORATION

APPELLANT(S)

VERSUS

ASHOK KUMAR CHAUDHARY & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO. 821 OF 2022  
(Arising out of SLP (C) No. 31205 of 2015)

O R D E R

Leave granted.

Both these appeals are directed against similar orders.

The case of the appellants, in short, is as follows:-

The party-respondents in both these appeals were engaged as Domestic Breeding Checkers. They were engaged on seasonal posts and they were paid accordingly. By the impugned order, on the strength of a status quo order obtained from the High Court, the High Court has refused to interfere with the order passed by the Central Administrative Tribunal (hereinafter referred to as 'CAT')

for brevity) directing payment of salary for the period when according to the appellants, the respondents have not worked.

We heard Mr. Ajay Bansal, learned counsel for the appellants, and Mr. Anand Nandan, learned counsel for the party-respondents.

Learned counsel for the appellants would point out that in the appellant-corporation, noticing the need for seasonal workers to deal with the menace arising from the breeding of mosquitoes, it was felt necessary to engage workers on a seasonal basis from December to April. It so happened that certain writ petitions came to be filed wherein certain grievances were sought to be ventilated. This included complaints against the seniority list. More importantly, it also raised the issue relating to the need for regular posts and to fill up those posts by appointing/continuing the so-called seasonal workers. The said litigation culminated in the judgment, the operative part of which reads as follows:

“Based on the above discussions these batch of writ petitions are disposed of with the following directions.

The respondent/MCD to maintain the seniority list of domestic breeding checkers/ health workers as already directed by this Court vide order dated 10.01.2006 (Revindra Bhat, J.) and future appointments of these domestic breeding checkers/ health workers shall be made strictly in terms of the seniority of the candidates.

The respondent/MCD shall also take into consideration various directions given by the Division Bench of this Court in the aforesaid dengue matter titled Court on its own Motion (supra) and then examine the need of regular appointments on the posts of Domestic Breeding Checkers so that menace of these deadly diseases are effectively and efficiently handled with promptitude and the precious lives of the citizens are saved. The MCD indisputably, cannot remain oblivious to the fact of continuous recurrence of these diseases every year and, therefore, it will be in the fitness of things if the respondent/MCD examines the issue of deployment of regular man force to deal with the menace of such regular outbreaks of these fevers/diseases. In case the MCD takes such a decision of creating regular posts, then, in that event, the candidature of the present petitioners be also taken into consideration strictly in accordance with their seniority list, after giving due consideration to the factor of age relaxation as well. The respondent/MCD shall take a decision in this regard within a period not later than six months."

It is the further case of the appellants that a Committee was constituted to study the need for having regular posts. The Committee did not find the need. Writ Petition No.1036 of 2008 came to be filed by 10 Domestic Breeding Checkers. The said writ petition culminated in judgment dated 16.09.2008. Therein, essentially, noticing the fact that there was an order of *status quo* obtained by the said 10 workers and also the stand taken by the counsel for the appellant that the appellant will pay the salary for the 10 petitioners, the writ petition came to be disposed of.

A review petition which was filed in Writ Petition No.1036 of 2008 came to be disposed of vide order dated

06.11.2009. Therein, the Court did not find merit in the review but the Court made it clear that final order passed on 16.09.2008 (the order passed in Writ Petition No.1036 of 2008) will not be used as precedent by other Domestic Breeding Checkers and will be applicable to the petitioners of that case only. The respondents in these appeals filed Original Application before the CAT and suffice it to notice the operative part of the order:

"3. Counsel for respondents points out that the issue related to payment of salary to seasonal workers during the period they worked. A status quo order was passed by the High Court of Delhi. Even though the general question is whether any such payment can be made available is kept open for this particular period is covered by judgment of High Court of Delhi, and therefore, Original Application is allowed and during this period alone workers are entitled to payment as covered by the status quo order passed by the High Court. Original Application is allowed to this extent alone. Compliance be done within three months time from the date of receipt of a copy of this order."

This order has been upheld by the High Court by way of refusing to entertain the writ petitions filed by the appellant challenging the same.

Learned counsel for the appellants would urge on the strength of the proceedings that the respondents cannot claim any right to salary for the period in question. In fact, it was pointed out that they had not obtained *status quo* order unlike the petitioners in Writ Petition No.1036 of 2008. It is appellants' further case that upholding the impugned orders will have severe financial consequences for

the appellant-Municipal Corporation as several persons would come forward with similar claims. It is reiterated that the respondents have not worked except during the season. They cannot claim salary for the period for which they have not worked.

*Per contra*, Mr. Anand Nandan, learned counsel for the respondents, would point out that the respondents had also filed writ petition which is noted as Writ Petition No.8288 of 2007. It is pointed out that the learned Single Judge of the High Court of Delhi, as she was at that time, had indeed passed an order of *status quo*. It is further pointed out that no reliance could be placed by the appellants on the order passed in the LPA for the reason that though it is true that the respondents unsuccessfully alleged contempt of the order of *status quo* on the basis that salary was not being paid in contravention of this order of *status quo* and the appeal against the same was dismissed by the High Court, special leave petitions were moved before this Court. It is contended that this Court left it open to the respondents to apply for salary for the period. In the other words, it is contended that the matter did not stand finalized by the High Court dismissing the appeal against the order rejecting the contempt application. This led to the Original Application being filed. Learned counsel would also point out that even subsequently, the respondents are working on a

continuous basis. The stand of the appellants is unfair. It is a genuine public interest requirement that the so-called seasonal workers work throughout the year and it is actually happening. The amounts in question are low.

It is noteworthy that though the learned counsel for the respondents has referred to the order in contempt being challenged in LPA No.389/2009, the order passed in the special leave petition, the original application filed, the reliefs sought before the CAT, the period for which the *status quo* was passed in Writ Petition No.8288 of 2027 and further details regarding the said case are not made available to this Court. As we have noticed, the order passed in Writ Petition No.1036 of 2008 was an order which was passed on concession by the learned counsel. Furthermore, the appeal carried against the said order by the appellant has resulted in, no doubt, its dismissal. However, it was made clear in the said order that the final order in Writ Petition No.1036 of 2008 will not be used as a precedent by other Domestic Breeding Workers and will be applicable to the petitioners in that case only. The order passed by the CAT is entirely based on the *status quo* order and it purports to follow the order passed in Writ Petition No.1036 of 2008.

We are not provided with all the details and we would think that the interest of justice would require that the

matter is considered by the High Court with the aid of appropriate materials, pleadings and the orders passed in the case which are sought to be relied upon by the learned counsel for the respondents.

Resultantly, the appeals are allowed. The impugned order is set aside. The High Court will take up the writ petition in question filed by the appellant. We make it clear that it will be open to the respondents to produce all material available, as they are advised to, before the Court. We request the High Court in view of the nature of the relief sought which is payment of salary to the seasonal workers to preferably dispose of the case within a period of three months from the date a copy of this judgment is produced before it.

We make it clear that we have not purported to pronounce on the merits of the matter and we leave open all the contentions of the parties.

No orders as to costs.

....., J.  
[ K.M. JOSEPH ]

....., J.  
[ HRISHIKESH ROY ]

New Delhi;  
February 01, 2022.

ITEM NO.6 Court 10 (Video Conferencing) SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Special Leave to Appeal (C) No. 31201/2015  
(Arising out of impugned final judgment and order dated 22-09-2014  
in CMWP No. 3321/2014 passed by the High Court of Delhi at New  
Delhi)

NORTH DELHI MUNICIPAL CORPORATION Petitioner(s)  
VERSUS  
ASHOK KUMAR CHAUDHARY & ORS. Respondent(s)  
(With IA No. 3/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT)

WITH  
SLP(C) No. 31205/2015 (XIV)  
(With IA No. 2/2015 - EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT)

Date : 01-02-2022 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s) Mr. Ajay Bansal, Adv.  
Mr. Praveen Swarup, AOR  
Ms. Veena Bansal, Adv.  
Mr. Gaurav Yadav, Adv.  
Ms. Payal Swarup, Adv.  
Mr. Syed Jafar Husain, Adv.  
Mr. Archana Sharma, Adv.

For Respondent(s) Mr. Anand Nandan, Adv.  
Mr. Amit Pawan, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending applications stand disposed of.

(NIDHI AHUJA)  
AR-cum-PS

(RENU KAPOOR)  
BRANCH OFFICER

[Signed order is placed on the file.]