

**BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, No. 2 DELHI**

ID No. 226/2018

Sh. Ravinder Singh, S/o Sh. Vijay Pal Singh,
Through-MCD General Mazdoor Union,
C/o Room NO. 95, Jam Nagar House,
Shahjahan Road, New Delhi-110011.

VERSUS

The Commissioner,
East Delhi Municipal Corporation,
Udyog Sadan, Plot No. 419,
Patparganj Industrial Area,
Shahadra, Delhi-110032.

Present: Sh. B.K Prasad, Ld. AR for the claimant.
Sh. Arvind Kumar, Ld. AR for the management.

Award

1. In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour and Employment, vide its Order No. **L-42011/53/2018-IR (DU)** dated 20.11.2018 has been pleased to refer the following dispute between the employer, that is the Management of East Delhi Municipal Corporation and their workman for adjudication by this Tribunal, terms of which are as under:

***“Whether the Industrial Dispute between Sh.
Ravinder Singh S/o Sh. Vijay Pal Singh raised
by the MCD General Mazdoor Union and
East Delhi Municipal Corporation regarding
the entitlement of the wages of Garden***

Chaudhary w.e.f. 01.04.1990 in the pay scale of 950-1500 till 03.03.2014 with all consequential benefits is fair and legal? If so, what relief the Union and workman are entitled to?"

In pursuance to the reference, claimant had filed the claim statement stated that he has been employed on Muster Roll Mali on 01.04.1981. Thereafter, he was initially appointed as regular Mali on 01.04.1988. He had been performing the duty of an Acting Chaudhary w.e.f. 01.01.1990 till his superannuation up to 04.03.2014 under **Shahadara Zone (Horticulture)**. Management has fixed the different pay scales to their employees including Mali, Chaudhary etc. in accordance to their job profile. He was not given the grant of proper pay scale of officiating Garden Chaudhary w.e.f. 01.04.1990 to till 03.03.2014 which amount to force labour and the management is indulging in unfair labour practice. He had got the payment in lower pay scale of Mali Rs. 750-940/- revised from time to time and he has been denied the pay scale of Rs. 950-1500/- for his duty performed as Chaudhary w.e.f. 01.04.1990 revised from time to time. He had stated that Hon'ble High Court of Delhi in the matter of **Jai Chand vs. MCD (CW No. 6514/2001)** has disapproved the non-payment vide order dated 02.05.2003 for the post of Chaudhary. The same stand has been taken by the Hon'ble Division Bench of High Court of Delhi in the matter of **MCD vs. Sultan Singh & Ors.** in W.P. (C) No. 7947/2010. As such, he claims that he may be awarded the payment of Acting Chaudhary in the pay scale of Rs. 950-1500/- revised from time to time to him w.e.f. 01.04.1990 up to his superannuation.

2. Respondent herein has filed the W.S. stating that the claimant does not disclose the correct facts and has filed the claim without any locus. Workman is not eligible for any kind of relief as prayed by him in the present application and the said application is nothing but an abuse of process of law and waste of precious judicial time. He submitted that management corporation has taken a time to time a Trade Test for Garden Chaudhary post so, workman cannot claim the wages for

without giving departmental test. He further submitted that the workman has appeared in Trade Test in the year 2013, thereafter, he was promoted for the post of Garden Chaudhary. It has been submitted by him that after promotion as a Chaudhary in March, 2014 and on his retirement he had received all the consequential benefit of his retirement. He submitted that Management Corporation has its own policy of promotion for Garden Chaudhary i.e. in the phased manner and availability of funds and post, so workman cannot claim for the promotion regarding pay scale for Garden Chaudhary post from the date of 01.04.1990. He had denied that the management has fixed any pay scale for officiating Chaudhary. However, he had admitted that there are different pay scales for different posts. He submitted that claim petition be dismissed.

3. After completion of pleadings vide order dated 04.07.2022, following issues had been framed:

- a. Whether the proceeding is maintainable.
- b. Whether the claimant is entitled to the wage of Garden Chaudhary w.e.f. 01.04.1990 in the pay scale of 950-1500 till 03.03.2014 with all other consequential service benefits.
- c. To what other relief the claimant is entitled to.

4. In order to prove its claim, the workman himself had entered into the witness box. He submitted that he was working as a permanent Mali in the management since 01.04.1988. He deposed the fact that he was allotted the work of Garden Chaudhary w.e.f. 03.03.1990 and performed his duty under West Zone (Horticulture) and was transferred from West Zone to South Zone Green Park in the year 2006 and then further was transferred from South Zone to Shahdara South Zone in the year 2009 till his superannuation up to 31.08.2023. His name has been appearing at Serial No. 6 in the list of officiating Chaudhary issued by the Dy. Director (Horticulture) West Zone which is **Exhibit WW1/1**. He submitted that he is entitled to the wages of Acting Chaudhary in the pay scale of Rs. 950-1500 revised from time to time w.e.f. 01.01.1990 up to 03.03.2014 along with all consequential benefits.

5. Witness was put to the cross-examination where he admitted that he had never lodged any complaint in the office of the management, claiming his unpaid dues which are the subject matter of the present proceeding since he was told that his matter shall be taken up by the management with the case of similarly placed person. In the year 2014 he has got the promotion to the post of Garden Chaudhary from the post of Mali. He had filed the document which has been marked as Ex. WW1/1. He had denied that the claim has been filed on the basis of false and fabricated document.

6. In rebuttal, one Sh. Rajit Kumar, Assistant Commissioner, Shahadra South Zone, Horticulture Department, MCD has been examined by the management, wherein he had reiterated the facts and mentioned by him in the W.S.

7. MW1 was put to cross-examination where he admitted that workman was working as Acting Chaudhary, he was promoted in September, 2014. He also admitted that the document Ex. WW1/1 which is the list issued by management in which the name of the present workman was mentioned at Sr. No. 6 and also mentioned that he is Acting Chaudhary since January 1990.

8. I have heard the argument at par, perused the record and analyzed the evidence. The whole of the case of the claimant rest upon the facts that management witness has admitted the list Ex. WW1/1 wherein name of the workman had been shown at S.No. 6. He was 10th pass, appointed as "Mali" on 01.04.1988 and looking after the work of Acting Chaudhary w.e.f. 01.01.1990. He had made prayer that considering the above facts on record and in view of the judgment passed by the Hon'ble High Court in the case of **Municipal Corporation of Delhi vs. Sultan Singh & others W.P. (C) No. 7947 of 2010**, decided on 20.04.2011 where similarly placed person had been given the higher scale so he be given the pay scale of Acting Chaudhary revised from time to time.

9. While the respondent stand is that the workman's service was earlier regularized as Mali in 1988 and he was promoted in the year

September, 2014 and till then he has been paid all the benefit of the Acting Chaudhary. He was retired in the year 2023 and he had been paid all the benefits therein. He further submits that workman is not entitled to the benefit for the pay scale of the Acting Chaudhary for the period which he claims.

10. Here, it is not disputed that the claimant has not been working as Acting Chaudhary since 1990. MW1 himself admitted the list issued by management where the name of the claimant has been shown as 10th pass and has been working as an Acting Chaudhary since 1990. Operating portion of the judgment of *Sultan Singh & Others* in which the workman has placed reliance, where in para no. 28, it was observed:

“28. Considering the entire facts and circumstances it is apparent that the claim of the respondents have always been that they should be paid the difference in pay of Mali/Chowkidar and the Garden Chaudhary as they were made to work on the post of Garden Chaudhary whereas the petitioner had first denied that they worked as Garden Chaudharies, then took the plea that the Assistant Director (Horticulture) was not competent to ask the respondents to work as Garden Chaudharies and that the respondents cannot be appointed to the post of Garden Chaudharies in accordance with the recruitment rules. There is no doubt that respondents are not claiming appointment to the post of Garden Chaudharies on account of having worked on ad-hoc basis on the post of Garden Chaudhary contrary to rules or that some of them not having the requisite qualifications are entitled for relaxation.”

11. It is not out of place mention here that even if the claimant herein was not a party in *Sultan's* case referred above, judgment of Hon'ble High Court is binding on the management and the management is required to implement the same. When the workman had been

assigned the job of an 'Acting Chaudhary' i.e. a higher post then that of 'Mali' for so long (for the last 24 years), and has been designated as Chaudhary, then, pay and allowance of Chaudhary be given to him instead of Mali.

11. In view of the above discussion, workman/claimant is entitled to the pay scale of Acting Chaudhary since 1990 to 2014, when he was actually promoted to the post of Chaudhary. Respondent herein is liable to pay the difference of the wages of Mali and Acting Chaudhary from the date, when the workman herein was performing duty till he was actually promoted. Management is directed to pay the entire difference of the salary within two months from the date of passing the award. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the I.D Act, 1947.

Date: 11.07.2025

ATUL KUMAR GARG
(Presiding officer)
CGIT-Cum-LabourCourt-II