

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C.) No. 15125/2004**  
% **Date of Decision: 06<sup>th</sup> JANUARY,2010**  
# MUNICIPAL CORPORATION OF DELHI .....PETITIONER  
! Through: Mr. Sanjeev Sabharwal, Advocate.  
  
VERSUS  
  
\$ WORKMEN, NAMELY VIRENDRA KUMAR, RAM NATH, RAM KUMAR  
AND MOHAN LAL AS REPRESENTED BY HOT MIX PLANT, MAZDOOR  
UNION .....RESPONDENTS  
  
^ Through: Mr. K.L. Gupta, Advocate for the  
respondents.

**CORAM:**  
**Hon'ble MR. JUSTICE S.N. AGGARWAL**

1. Whether reporters of Local paper may be allowed to see the judgment? **YES**
2. To be referred to the reporter or not? **YES**
3. Whether the judgment should be reported in the Digest? **YES**

**S.N.AGGARWAL, J (ORAL)**

The Municipal Corporation of Delhi in this writ petition seeks to challenge an industrial award dated 03.12.2002 in I.D. No. 103/1993 directing it to grant pay scale of Rs. 330-560 (pre-revised) w.e.f. 01.01.1973 and pay scale of Rs. 1200-2040 w.e.f. 01.01.1986 to the four workmen namely S/Sh.Virender Kumar, Ram Nath, Ram Kumar & Mohan Lal, who are respondents in this writ petition.

2. Arguments of counsel for both the parties have been heard in the matter.
3. The respondents workmen were employed as Assistant Operators on Hot Mix Plant in the Municipal Corporation of Delhi since 1973. There are posts of drivers also in the Municipal Corporation of Delhi. Till 1989, the operators working on Hot Mix Plant and the drivers were both getting same pay scale of Rs.260-400/- pre-revised). In 1989, the petitioner

Municipal Corporation of Delhi revised the pay scale of the drivers from Rs.260-400/- to Rs.330-560/- (pre-revised). The petitioner did not grant the same higher pay scale of Rs.330-560/- to the operators working on the Hot Mix Plant. Aggrieved therefrom, the respondents workmen had raised an industrial dispute for grant of same pay scale of Rs.330-560/- (pre-revised) to them as has been granted by the petitioner Municipal Corporation of Delhi to the drivers.

4. The Labour Court, upon consideration of the evidence produced by the parties before it, has directed the petitioner Municipal Corporation of Delhi vide award impugned in the present writ petition that the respondents workmen are also entitled to have the benefit of higher pay scale of Rs.330-560/- (pre-revised) w.e.f. 01.01.1973 and pay scale of Rs.1200-2040/- w.e.f. 01.01.1986. It is aggrieved by this award of the Industrial Tribunal, the petitioner Municipal Corporation of Delhi has filed the present writ petition seeking setting aside of the said award inter-alia on the ground that the recruitment rules for the post of drivers and for the post of Assistant Operators on Hot Mix Plant are different and they both perform duties of different nature. Mr. Sanjeev Sabharwal learned counsel appearing on behalf of the petitioner Municipal Corporation of Delhi has referred and relied upon the recruitment rules applicable to the post of drivers and that applicable to the post of Assistant Operators in Municipal Corporation of Delhi which are there at pages 23-24 of the paper book to contend that the recruitment rules for these two posts are different and therefore according to him, the impugned award suffers from perversity and is liable to be set aside. I have considered this argument advanced on behalf of the petitioner in the light of material available on record.

5. Upon consideration of the above argument advanced on behalf of

the petitioner, I have not been able to persuade myself to agree with the submission of Mr. Sabharwal. On going through the recruitment rules applicable for the post of drivers and that applicable for the post of operators on Hot Mix Plant, it may be seen that the recruitment rules for these two posts were and are different both before 1989 and after 1989. It is not disputed by Mr Sabharwal appearing on behalf of the petitioner Municipal Corporation of Delhi that though recruitment rules for drivers and operators were different even prior to 1989 but still the operators as well as drivers were getting the same pre-revised pay scale of Rs.260-400/- till the time Municipal Corporation of Delhi upgraded the pay scale of drivers in 1989. Learned counsel appearing on behalf of the petitioner has no explanation to the question that if prior to 1989 the drivers and operators were granted the same pay scale though recruitment rules for them were different then how and why they can be discriminated in the matter of grant of pay scale to these two categories of employees even after 1989 when there was absolutely no change in their recruitment rules. Furthermore, the Tribunal below has taken into account the same pay scale being granted to the operators and the drivers in NDMC. The respondents workmen were therefore rightly awarded the benefit of higher pay scale that was granted by the petitioner Municipal Corporation of Delhi to the drivers and no fault can be found in the said award.

6. In view of the foregoing, I do not find any illegality or perversity in the impugned award that may call for an interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution. This writ petition therefore fails and is hereby dismissed leaving the parties to bear their own costs.

**JANUARY 06, 2010**  
**'A'**

**S.N.AGGARWAL, J**