

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

+ **W.P. (C.) No.144/2010**

% **Date of Decision: 12.01.2010**

Sh.Om Prakash ..... Petitioner  
Through Mr.Lalta Prasad, Advocate.

Versus

MCD and Ors ..... Respondents  
Through Ms.Suparna Srivastava, Standing  
Counsel for the MCD.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KUMAR**

**HON'BLE MR. JUSTICE MOOL CHAND GARG**

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|----|---|-----|
| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not?                                | NO  |
| 3. | Whether the judgment should be reported in the Digest?                | NO  |

**ANIL KUMAR, J.**

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The petitioner has challenged the dismissal of his petition before the Central Administrative Tribunal claiming regularization after working as casual labour.

The petitioner had contended that he was engaged on muster roll in May, 1988 and he worked with the respondents till April, 1998. According to him he was regularized and after regularization in 1998, he was not well and, therefore, he went to his village where he was diagnosed having Tuberculosis. It was alleged by him that he was under treatment of doctor from 1<sup>st</sup> May, 1998 to 19<sup>th</sup> November, 1999 and he was declared fit on 12<sup>th</sup> November, 1999 whereafter he reported for work and gave his representation but neither his representation had been decided nor he was allowed to work.

The petitioners contention is that he became fit for work in November, 1999, however, he was not allowed to join work, therefore he filed the writ petition in 2008 which had been transferred to the Central Administrative Tribunal, Principal Bench which was dismissed by the Tribunal in T.A No.198/2009 by order dated 27<sup>th</sup> May, 2009 titled Sh.Om Prakash v. Commissioner, MCD and Ors.

The Tribunal has disbelieved the medical certificate produced by the petitioner on the ground that though the petitioner alleged that he had tuberculosis, however, he had produced the medical certificate issued by an alleged child specialist. The medical certificate relied on by the petitioner also did not bear any stamp of the doctor, who had certified it nor it bore any registration number of the doctor and,

therefore, no reliance could be placed on the same. The Tribunal also relied on State of Karnataka v. Uma Devi, JT 1993 (3) SC 418 to infer that the petitioner was a casual labour in 1999 and he has no right to be regularized. The Tribunal has also noted that the petitioner has failed to substantiate his plea that as a casual labour he was regularized in 1998. The petitioner failed to give any sufficient reason for not approaching the Court after 1999 when the petitioner became fit till 2008.

The learned counsel for the petitioner has failed to substantiate the plea that the petitioner had been regularized from casual worker to the regular worker in 1998. The learned counsel is also unable to explain the delay in approaching the Tribunal for alleged regularization in 1998 till 2008.

In the circumstances, there are no grounds to interfere with the order of the Tribunal dated 27<sup>th</sup> May, 2009 declining the plea of the petitioner for regularization on account of having worked as casual labour with respondent in 1999. There is no illegality or such irregularity which will require any correction by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

The writ petition in the facts and circumstances is without any merit and it is, therefore, dismissed.

**ANIL KUMAR, J.**

**JANUARY 12, 2010**  
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**MOOL CHAND GARG, J.**