

Delhi Development Authority Vs. Virender Kumar Tyagi

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Court : Delhi

Decided On : Sep-16-1997

Reported in : 1997VIAD(Delhi)41; 70(1997)DLT38; 1997(43)DRJ91; [1998(79)FLR926]; 1997RLR662

Judge : Mahinder Narain and; S.K. Mahajan, JJ.

Acts : [Constitution of India](#) - Article 21

Appeal No. : Letters Patent Appeal No. 192 of 1997

Appellant : Delhi Development Authority

Respondent : Virender Kumar Tyagi

Advocate for Pet/Ap. : Apurab Lal and; Piyush Sharma, Advs

Judgement :

Mahinder Narain, J.

(1) ADMIT.

(2) There is a short point involved in this appeal, and we proceed to dispose of this appeal.

(3) We have heard both the counsel, particularly on what is stated in pages 38 and 39 of the appeal record. Page 38 contains a letter dated 27.7.1995, which reads

as under:-

Delhi development Authority (FINANCE & EXPENDITURE) No.
F.64(1)91/Pt.II/610/11/ Dt : 27.7.1995.

THE Assistant Accounts Officer,

MECHANICAL& Workshop Division,

D.D.A.,New Delhi.

SUB:Control over expenditure on overtime allowance.

REF:Your letter No. 86(6)M&WD;/A/DDA/95-96/668

F.M.has decided that overtime allowance henceforth will not be paid to Shri V.K. Tyagi, staff car driver (W/c regular) working as Legal Assistant in diverted capacity vide E.O. No. 4705 dated 3.11.89 till the final disposal of his Court case which is going on.

FURTHER the decision regarding recovery of overtime allowance already paid to him will be taken on conclusion of the court case. sd/- (R.D. Gupta) Sr. A.O. (F&E;) Copy to:

1.Executing Engineer, M&WD;, Dda for information and necessary action. Sr. A.O.(F&E;) Page 39 is an internal communication which has been signed by the Vice-Chairman of the Delhi Development Authority, wherein it has been stated that 'As requested earlier vide note dated 2.3.1995, duly forwarded by Commissioner (L.M. (copy at flag 'C') issue of Identity Card to Shri Virender Kumar Tyagi will help him in performing his duties more effectively at different offices being visited by him. I feel that issue of Identity Card is very necessary'. In the margin, there is a hand written note which records 'Yes'.

(4) This communication was addressed on a representation of the respondent Virender Kumar Tyagi, who was stated to be working as Legal Assistant in the enhanced compensation cell at Tis Hazari Courts, Delhi. From the above said letter and the internal note, which appears to be signed by the persons competent

to give employment, namely, the Vice-Chairman and the Member Finance, it is clear that the respondent Virender Kumar Tyagi was working as Legal Assistant and the officials of the Delhi Development Authority concerned, were aware of it. That is the entire case of the respondent. He was given a letter of appointment as a work charge driver, but he was being asked to function as a Legal Assistant. In this context, we also note the provision of Article 23 of the Constitution, which reads as under:-

23.Prohibition of traffic in human beings and forced labour --- (1) Traffic in human beings and 'beggar' and other similar forms of forced labour are prohibited and any contravention of this provisions shall be an offence punishable in accordance with law. The word 'beggar' in this Article has obvious reference to traffic in the human beings and forced labour. In this case, the respondent may actually not be performing forced labour, but he is certainly made to work as a Legal Assistant, and if he is not paid as a Legal Assistant, it cannot be said that 'beggar' is not being performed by him. It is only when he is paid as a Legal Assistant that it can be said that prohibition of Article 23 of the Constitution is not attracted to this case.

(5) We find no substance in this appeal. The appeal is dismissed as such.

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