

Sonu Vs. Mcd and ors.

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Court : Delhi

Decided On : Mar-17-2005

Reported in : 120(2005)DLT400; [2006(106)FLR398]; (2005)IIILLJ70Del

Judge : Vikramajit Sen, J.

Acts : [Minimum Wages Act, 1948](#) - Sections 15

Appeal No. : W.P. (C) 759 of 1998

Appellant : Sonu

Respondent : Mcd and ors.

Advocate for Def. : Amita Gupta, Adv.

Advocate for Pet/Ap. : Ashok Aggarwal, Adv

Disposition : Petition allowed

Judgement :

ORDER

Vikramajit Sen, J.

1. Rule.

The petitioner states that he is working as Safai Karamchari for a full working day since 1988 although he has been designated as a part-time worker. My attention has been drawn to the Office Order dated 5.2.1999 which prescribes the duty hours for part-time Safai Karamchari as follows:

Ist shift -- 7.00 a.m. to 1 p.m. IInd shift -- 12.30 p.m. to 6.30 p.m. Single shift -- 7.30 a.m. to 2.00 p.m.

2. The contention of learned Counsel for the respondent is that the petitioner is a part-time Safai Karamchari and works for only four hours in a day. This is strenuously opposed by learned Counsel for the petitioner. In my view it is not open to debate for the simple reason that the abovementioned Office Order stipulates the working hours which are certainly not four hours. On a perusal of the Office Order even though it does not show that there are eight hours of work but in view of Section 15 of the [Minimum Wages Act, 1948](#) it is always open to the respondents to prescribe working hours as per their choice. If of their own volition they have prescribed duty for less than eight hours, it must be presumed that there is a good and sufficient reason for doing so.

3. Learned Counsel for the respondent states that persons up to 724 in the seniority list have been regularised and that the petitioner will also be regularised in the near future since his seniority at 987 is likely to ripen on the next set of regularisation. Counsel for the petitioner, therefore, does not press this prayer. The prayers are restricted to the payment of minimum wages. It is the State that prescribes and fixes the minimum wages and it would be travesty of law if they themselves are the violators of standards which they have laid for other parties. The present writ petition is pending since 1998 and although the prayers contained therein states that the petitioner should be paid on the principles of equal pay for equal work, prayer is restricted to the payment/receipt of minimum wages.

4. In these circumstances, the respondents are directed to pay minimum wages for three years immediately previous to the passing of these Orders. Payment be made within four weeks from today.

5. These Orders should not be construed as stating that the duty hours fixed in the said Office Order cannot be varied that question is left open.

Writ Petition is allowed in the above terms.

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