

Mcd Vs. Krishna Sharma and anr.

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SooperKanoon Citation : sooperkanoon.com/706236

Court : Delhi

Decided On : Nov-10-2003

Reported in : 2004(73)DRJ708

Judge : Mukul Mudgal, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : CW 718/2002 and CM 1208/2002

Appellant : Mcd

Respondent : Krishna Sharma and anr.

Advocate for Def. : Sanjoy Ghose and ; Pragnya, Advs. for Respondent No. 1

Advocate for Pet/Ap. : Amita Gupta, Adv

Disposition : Petition dismissed

Judgement :

Mukul Mudgal, J.

1. Rule.

2. With the consent of the counsel for the parties, the writ petition is taken up today for final hearing.

3. This writ petition challenges the Order dated 1st September, 2001, passed by the Labour Court in LCA. No. 556 of 1993 which upheld the entitlement of the respondent No. 1/workman to emoluments of Rs. 27,577.83 for the period starting from 20th February, 1984 to December, 1988 payable as per an earlier award dated 13th May, 1988 which entitled her such payment claimed in this application to be made to such of the B-Grade Staff Nurses, who had put in requisite period of three years of service and worked on the post of A-Grade Staff Nurse.

4. It is not in dispute that in, view of the findings recorded by the Labour Court that all such conditions were satisfied by the respondent No. 1/workman. The petitioner management's witnesses had not appeared for their cross-examination and accordingly their evidence was rightly not taken into account. The respondent No. 1's averments and testimony of her fulfilling the criteria of 3 years service and working on the post of A-Grade Staff Nurse stood unrebutted and were believed by the Labour Court in arriving at its findings. The Labour Court in fact relied upon the evidence of MW1 Harish to hold that respondent No. 1 had worked against the post of 'A' Grade/13 Grade Staff Nurse at Balak Ram Hospital but he admitted that all posts of nurses in Balak Ram Hospital were 'A' Grade Staff Nurses' post. It was also found as per the record that the respondent No. 1 had been appointed as an auxiliary nurse midwife on 28th February, 1975 and had completed 3 years of service and had remained posted as 'A' Grade Staff Nurse from 20th February, 1984 to December, 1988. In view of the aforesaid factors and the findings of fact in favor of the respondent No. 1, no error can be found in the impugned award and accordingly no interference is called for with the award in the writ jurisdiction of this Court under Article 226 of the [Constitution of India](#).

5. The writ petition is accordingly dismissed with no order as to costs. Consequently the interim Order dated 31st January, 2002 stands vacated.