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## MUNICIPAL CORPORATION OF DELHI V. FEMALE WORKERS (MUSTER ROLL)

*~Yati Dharna*

### INTRODUCTION

The landmark case of Municipal Corporation of Delhi v. Female Workers (Muster Roll), adjudicated by the Supreme Court of India in 1998, addresses critical issues of labor rights and gender equality. The case involves the Municipal Corporation of Delhi (MCD) and its female workers employed on a casual basis, who were recorded on muster rolls for various tasks such as cleaning and maintenance. Despite their significant contributions, these workers were denied maternity benefits, which are typically afforded to regular employees.

### FACTS OF THE CASE

Female workers (muster roll), engaged by the Municipal Corporation of Delhi, raised a demand for a grant of maternity leave, which was made available only to regular female workers but was denied to them on the ground that their services were not regularised and, therefore, they were not entitled to any maternity leave.

The Union filed a statement of claim in which it was stated that the Municipal Corporation of Delhi employs a large number of persons, including female workers on muster roll, and they are made to work in that capacity for years together, though they are recruited against the work of perennial nature.

### PETITIONER'S ARGUMENTS

The petitioner argued that the female workers (muster roll) required the same maternity benefits as were enjoyed by regular female workers under the Maternity Benefit Act, of 1961.

### ISSUES

Should the female workers working on the muster roll be given any maternity benefits? If so, what directions are necessary to be followed in this regard?

### **RESPONDENT'S ARGUMENTS**

The Corporation, in their written statement, pleaded that the provisions under the Maternity Benefit Act, 1961 or the Central Civil Services (Leave) Rules did not apply to the female workers engaged on the muster roll, as they were all engaged only on daily wages.

It was also contended that they were not entitled to any benefit under the Employees; State Insurance Act, of 1948.

It was contended that the benefits contemplated by the Maternity Benefit Act, of 1961 could be extended only to workwomen in an "industry" and not to the muster-roll women employees of the Municipal Corporation.

### **DECISION**

The Tribunal concluded that the provisions of the Maternity Benefit Act had not been applied to the Corporation and, therefore, it felt that there was a lacuna in the Act. However, The Tribunal allowed the claim of the female workers (muster roll). It directed the Corporation to extend the benefits under the Maternity Benefit Act, of 1961 to muster-roll female workers who were in the continuous service of the Corporation for three years or more.

It further felt that it should have been brought within the purview of the Act so that the maternity benefits contemplated by the Act could be extended to the women employees of the Corporation.

The Court further laid down that the activity of the Delhi Municipal Corporation by which construction work is undertaken would fall within the definition of "industry". The workmen or those employed on muster roll for carrying on these activities would, therefore, be "workmen" and the dispute between them and the Corporation would have to be tackled as an industrial dispute. The court referred to the case of *Baroda Borough Municipality v. Workmen [AIR 1957 SC 110]* on this point.

This judgment was challenged in a writ petition before the Delhi High Court which was dismissed. The Letters Patent Appeal filed after that by the Corporation was dismissed on the ground of delay.

## **RATIO DECIDENDI**

On 18-12-1979, the United Nations adopted the “Convention on the Elimination of all Forms of Discrimination against Women.”

The principles that are contained in Article 11, reproduced below, have to be read into the contract of service between the Municipal Corporation of Delhi and the women employees (muster roll). By taking these principles into consideration, the employees immediately become entitled to all the benefits conceived under the Maternity Benefit Act, 1961.

Article 11 of this Convention provides as follows:

“Article 11

1. States/parties shall take all appropriate measures to eliminate discrimination against women in the field of employment to ensure the same rights as men, in particular:

- (a) the right to work;
- (b) the right to the same employment opportunities;
- (c) the right to free choice of profession and employment, the right to promotion, job security, and all benefits and conditions of service;
- (e) right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- (f) the right to social security, particularly in cases of retirement, unemployment, sickness, old age, and other incapacity to work, as well as the right to paid leave;
- (g) the right to protection of health and safety in working conditions, including safeguarding the reproduction function.

2. To prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States/parties shall take appropriate measures:

- (a) to prohibit dismissal on the grounds of pregnancy or maternity leave and discrimination in dismissals based on marital status;
- (b) to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority, or social allowances;

(c) to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) to provide special protection to women during pregnancy in types of work that proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised repealed or extended as necessary.”

The Court concluded their discussion by providing that the direction issued by the Industrial Tribunal shall be complied with by the Municipal Corporation of Delhi.

The benefits under the Act shall be provided to the women (muster roll) employees of the Corporations who have been working with them on daily wages.