

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

+ LPA 708/2001 and LPA No.138/2003

% **Date of decision: 5.2.2008**

1. LPA 708/2001
DR.R.R.GAUTAM Appellant
Through Mr.Sudershan Rajan, Advocate
versus
M.C.D. & ORS. Respondents
Through Mr.Amit K. Paul, Adv. for MCD
Mr.R.K. Saini, Adv. for private
respondents.

AND

2. LPA 138/2003
POONAM SAREEN NEE KOHLI Appellant
Through Mr.Anil Mittal, Advocate
versus
MCD Respondent
Through Mr.Amit K. Paul, Adv. for MCD
Mr.R.K. Saini, Adv. for private
respondents.

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE REVA KHETRAPAL**

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| 1. Whether reporters of local papers be allowed to see the judgment ? | no |
| 2. To be referred to the Reporter or not ? | no |
| 3. Whether the judgment should be reported in the Digest ? | no |

DR. MUKUNDKAM SHARMA, CJ (oral)

1. Both the appeals involve similar and identical issues. Therefore, we propose to dispose of both these appeals by this common judgment and order.

2. The appeals are directed against the judgment and order dated 14th May, 1998 passed by the learned Single Judge allowing the writ petition filed by the private respondents, namely, Dr.Vireshwar Singh and others, who were working as doctors in the Municipal Corporation of Delhi. These doctors filed the writ petition seeking for issuance of a mandamus directing the respondent – MCD to regularise their services in the Grade GDMO-II with effect from the date of their initial ad hoc appointment with all consequential benefits and also to treat them as regular employees of the Municipal Corporation of Delhi.

3. The said writ petition was considered by the learned Single Judge and the same was disposed of by the learned Single Judge accepting the contentions of the writ petitioners and a direction was issued that the said doctors and all other similarly situated doctors be regularised from the date of their initial ad hoc appointment.

4. The aforesaid order is challenged in this court on the ground that the said order was passed by the learned Single Judge without considering the ratio of the decision of the Supreme Court in **Dr.Anuradha Bodi and others v. Municipal Corporation of Delhi and others** reported as (1998) 5 SCC 293, which lays down law to the contrary.

5. It appears that during the pendency of the appeals in this Court, the Municipal Corporation of Delhi being aware of the aforesaid

judgment passed a fresh order on 15th June, 2007 whereby they have virtually denied the relief of regularisation to those persons from the date of their initial ad hoc appointment on the ground that the aforesaid decision of the Supreme Court permits such benefit to be given only from the date of their names being approved by the Union Public Service Commission. It is also pointed out by the counsel for the MCD that the decision was rendered by the learned Single Judge about a week after the aforesaid decision was rendered by the Supreme Court on 8th May, 1998. It appears that the ratio of the aforesaid decision was not brought to the notice of the learned Single Judge.

6. Be that as it may, by passing the aforesaid order dated 15th June, 2007, the Municipal Corporation of Delhi has practically nullified the reliefs which were granted by the MCD to the private respondents herein, who were the writ petitioners before the learned Single Judge. The said order dated 15th June, 2007 is again a matter of challenge before the learned Single Judge through a writ petition, which is pending for consideration.

7. The decision of the learned Single Judge is shown to be against the ratio of the decision of the Supreme Court in **Dr. Anuradha Bodi and others v. Municipal Corporation of Delhi and others** (supra) and accordingly an order was passed by the Municipal Corporation of Delhi giving effect to the orders of the Supreme Court in the aforesaid

decision.

8. In that view of the matter, practically nothing survives for consideration in these appeals, which stand disposed of accordingly. All the pending applications also stand disposed of.

9. It is made clear that whatever opinions and views are expressed by the learned Single Judge would have no bearing or relevance on the court deciding the writ petition(s), which is/are pending before the learned Single Judge as against the order dated 15th June, 2007, which shall be considered in the light of the records of that case and also in the light of the various decisions, which have been rendered by the Supreme Court on the aforesaid issue.

CHIEF JUSTICE

REVA KHETRAPAL, J

FEBRUARY 05, 2008
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