

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

Date of Order: December 13, 2018

+ **W.P.(C) 7809/2013**

+ **W.P.(C) 869/2014**

DEEN DAYAL & ORS

BIRMA DEVI & ORS.

..... Petitioners

Through: Mr.Krishna Chandra Dubey,
Advocate

versus

MGT. OF DEEPAK MEMORIAL HOSPITAL & MEDICAL
RESEARCH CENTRE

..... Respondent

Through: Mr.Harvinder Singh and Mr.
Sandeep Sharma, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In the above-captioned first petition, claim applications of petitioners-*Deen Dayal and four others* under Section 33-C (2) of the *Industrial Disputes Act, 1947* (hereinafter referred to as 'the ID Act') stand dismissed by the concerned Labour Court vide different orders of even date i.e. 22nd July, 2013 while holding that petitioners-workmen have received their salary in terms of Clause 3 of the Agreement of 16th September, 2006. In the above-captioned second petition, petitioners-*Birma Devi and two others* had filed similar claim applications under Section 33-C (2) of the *ID Act*, which stand dismissed by the concerned Labour Court vide different orders of even date i.e. 4th September, 2013

while holding that petitioners' claim applications are not maintainable as petitioners-workmen have received their salary in terms of Clause 3 of the Agreement of 16th September, 2006.

2. With consent of learned counsel for the parties, these petitions have been heard together and are being disposed of by this common order.

3. Learned counsel for petitioners dispute the wage-sheet, which has been relied upon by the trial court, and submits that without giving opportunity of hearing, the said wage-sheet has been relied upon, which is also disputed by petitioners. It is also submitted on behalf of petitioners that ad-hoc payments under different head have not been paid w.e.f. 1st September, 2006. Whereas, the stand of respondent is that ad-hoc payments have been made once.

4. Upon hearing and on perusal of impugned orders and the material on record, I find that in the facts and circumstances of this case, ad-hoc payment was to be made under different heads w.e.f. 1st September, 2006 as per the aforesaid Agreement. So, it cannot be said that it has to be paid only once. In any case, the facts of the instant case are such which require that the evidence ought to be led by the management and petitioners-workmen also regarding the compliance of Clause 3 of the aforesaid Settlement Agreement.

5. In light of aforesaid, impugned order is set aside with direction to the concerned Labour Court to reconsider petitioners' application under Section 33-C (2) of *the ID Act* while giving an opportunity to the parties to lead their evidence. Such a course is adopted because validity of the

Settlement Agreement of 1st September, 2006 is not disputed by petitioners.

6. The above-captioned two petitions are accordingly disposed of in aforesaid terms.

(SUNIL GAUR)
JUDGE

DECEMBER 13, 2018

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