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

+ W.P.(C) 7284/2016 & C.M. No. 29972/2016

GOVERNMENT OF NCT OF DELHI Petitioner
Through: Mr. Rizwan, Adv.

versus

SADHNA MISHRA Respondent
Through: Mr. Tushar Sannu with Ms. Ankita
Jain, Adv.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
28.11.2018

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1. We have heard learned counsel for the petitioner as well as respondent No. 1 and her counsel – Mr. Sannu. Firstly, we may observe that there is a dispute with regard to the capacity in which the respondent worked with the petitioner. While she claims that she performed her duties as a Peon, she was later on shown in the records as a part-time sweeper. She also claimed before the Tribunal that she was earlier drawing a monthly salary of Rs.4500/- which was reduced to Rs.1600/- per month.
2. The respondent/ applicant, who is present in Court is vehement and states that taking advantage of her illiteracy, the concerned officers have exploited her condition and not only downgraded her from a Peon to a part-time sweeper but also reduced the amount paid to her from Rs. 4500/- to Rs.1600/-.

3. The Tribunal has rejected the respondent's claim that she was drawing a monthly salary of Rs. 4500/- as a Peon since the respondent could not produce any document in this regard.

4. In our view, considering the circumstances of the respondent, a more detailed inquiry on the said aspect is called for. The petitioner is possessed of the entire service record in relation to the respondent. We, therefore, set aside the impugned order and remand the case back to the Tribunal for determination of firstly, the issue whether the initial engagement of the respondent was as a Peon and whether she was subsequently downgraded as a part-time sweeper. In this regard, we may also refer to the order dated 30.08.2016 passed by this Court which records the submission of the petitioner that the respondent was initially appointed as a Peon through AERO – a private contractor. The second issue which needs deeper consideration is with regard to the payment made to the respondent i.e. whether it was Rs.4500/- at any point of time as a Peon or was it only Rs.1600/- as claimed by the petitioner. In this regard as well, the petitioner would have all the relevant record.

5. We direct the Tribunal to call for the entire record in relation to the respondent and to examine the same carefully to determine these issues.

6. In the meantime, the respondent shall be allowed to serve with the petitioner as a part-time sweeper on remuneration of Rs.1600/- per month, which we are informed, is the remuneration paid to 69 other workers working as part-time sweepers. We may observe that the learned counsel for the respondent has contended that the said amount is much less than even the minimum wage.

7. The respondent may, therefore, accept the said remuneration in case

she chooses to work on that remuneration, without prejudice to her rights and contentions and while reserving her right to initiate appropriate proceedings in that respect.

8. The Tribunal shall decide the matter as early as conveniently possible considering that the case of the respondent has been pending for the last about five years.

9. The parties shall appear before the Tribunal on 11.12.2018.

10. The petition stands disposed of in the aforesaid terms.

11. Dasti.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 28, 2018

N.Khanna