

\$~3 - 34

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

%

Date of Decision: 31st July, 2019

+ W.P.(C) 8812/2007

3 M.C.D.

..... Petitioner

Through:

versus

ITS WORKMEN REPRESENTED BY
HOSPITAL EMPLOYEES UNION

..... Respondent

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochhar, Advocates.

+ W.P.(C) 8096/2015

4 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

KALLU RAM AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochhar, Advocates.

+ W.P.(C) 8097/2015 & CM No.16764/2015

5 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

RANBIR SINGH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8099/2015 & CM No.16768/2015

6 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

SILAK RAM AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8100/2015 & CM No.16771/2015

7 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

BHARTI DEVI AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8105/2015 & CM No.16777/2015

8 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

RAM KISHAN AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8112/2015 & CM No.16792/2015

9 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

CHANDAN SINGH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8113/2015 & CM No.16794/2015

10 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

BAL KISHAN AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8114/2015 & CM No.16796/2015

11 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

H.S. TYAGI AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8366/2015 & CM No.17752/2015

12 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

LEKH RAJ AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8367/2015 & CM No.17754/2015

13 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

RISHI KUMAR UPADHYAYA AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 8368/2015 & CM No.17756/2015

14 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

RAMESH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 1097/2016 & CM No.4767/2016

15 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

DHEL CHAND AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 197/2016 & CM No.811/2016

16 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Tushar Sannu, Standing counsel
for SDMC with Mr. Mohit Dagar,
Advocate.

versus

MANJEET SINGH GAHLOT AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 2097/2016 & CM No.9019/2016

17 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Anju Gupta and Roshan Lal Goel,
Advocates.

versus

RAGHUVVEER AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.
Mr. Rizwan and Mr. Apoorv Singhal,
Advocates for GNCTD.

+ W.P.(C) 2099/2016 & CM No.9021/2016

18 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Anju Gupta and Roshan Lal Goel,
Advocates.

versus

KANTI PRASAD AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.
Mr. Rizwan and Mr. Apoorv Singhal,
Advocates for GNCTD.

+ W.P.(C) 4684/2016 & CM No.19545/2016

19 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through:

versus

DY LABOUR COMMISSIONER
DISTRICT SOUTH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 10313/2017 & CM No.42053/2017

20 NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr.Gaurang
Kanth, Advocates.

versus

OM PRAKASH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.
Mr. Rizwan and Mr. Apoorv Singhal,
Advocates for GNCTD.

+ W.P.(C) 10349/2017 & CM No.42199/2017

21 NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocates.

versus

SATISH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 3172/2017 & CM No.13816/2017

22 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Anju Gupta and Mr. Roshan Lal
Goel, Advocates.

versus

GOPAL SINGH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 3599/2017 & CM No.15826/2017

23 EAST DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Kumar Rajesh Singh, Standing
Counsel with Ms. Punam Singh,
Advocate.

versus

KISHAN LAL AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 3601/2017 & CM No.15834/2017

24 EAST DELHI MUNICIPAL CORPORATION Petitioner
Through: Mr. Kumar Rajesh Singh, Standing
Counsel with Ms. Punam Singh,
Advocate.

versus

JAHEER AHMED AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 5283/2017

25 NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

GOVIND SINGH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 9067/2017

26 NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

RAGHUBIR SINGH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 316/2018

27 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

KISHAN AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 427/2018

28 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

DUDHNATH AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 428/2018

29 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

RAM AVATAR AND ORS. Respondents
Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 429/2018

30 SOUTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms. Biji Rajesh and Mr. Gaurang

Kanth, Advocate.

versus

CHETMAN GIRI AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 6143/2018 & CM APPL. 23794/2018

31 NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

PURAN MAL AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 6946/2018 & CM APPL. 26344/2018

32 NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

JITENDER KUMAR AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 6947/2018 & CM APPL. 26346/2018

33 NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

SURESH CHAND AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

+ W.P.(C) 510/2019 & CM APPLs. 2405-2406/2019

34 SOUTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Biji Rajesh and Mr. Gaurang
Kanth, Advocate.

versus

DAVENDER KUMAR AND ORS.

..... Respondents

Through: Mr. Rajiv Agarwal and Ms. Sugandh
Kochar, Advocates.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

J U D G M E N T (O R A L)

1. The petitioner has challenged the awards dated 31st July, 2006 whereby the Industrial Tribunal directed the washing allowance to be disbursed to the workmen at the rate of Rs.60/- per month with effect from 20th July 1993. In W.P.(C) 4684/2016, W.P.(C) 3599/2017 and W.P.(C) 3601/2017, the petitioner has challenged the recovery certificates issued for implementation of the awards.

2. The C and D category employees of the petitioner raised an Industrial dispute claiming enhancement of their washing allowance from Rs.15/- per month to Rs.60/- per month on the ground that the C and D category employees of hospitals/medical institutions were being paid washing allowance of Rs.60/- per month w.e.f. 20th July, 1993.

3. The petitioner defended the claim on the ground that the working conditions of C and D category employees in the hospitals cannot be equated

with the employees in the other departments. The petitioner follows Central Government orders with respect to the allowances payable to its employees. On 22nd June, 2000, the petitioner enhanced the washing allowance on C & D category employees working in the hospitals from Rs.15/- per month to Rs.60/- per month w.e.f. 20th July, 1993. With respect to the employees other than the hospital employees, washing allowance of Rs.15/- per month was increased to Rs.30/- per month w.e.f. 01st August, 1997 vide circular dated 14th September, 2001.

4. The Industrial Tribunal held that there was no justification for discrimination between C and D category employees working in hospitals and other C and D category employees and the Industrial Tribunal directed the petitioner to pay washing allowance to all C and D category employees at the rate of Rs.60/- per month with effect from 20th July, 1993.

5. Learned counsel for the petitioner urged at the time of hearing that that the work of the employees working in hospitals cannot be equated with other employees as the nature of work and duties of the hospital employees is different from other employees. It is further submitted that the principle of equal pay for equal work would not apply in the present case as the nature of work and duties of the two categories of employees are different.

6. Learned counsel for the respondents urged at the time of the hearing that C and D category employees whether working in hospitals/medical institutions or any other department, are doing the same work and are discharging the same duties. There is no difference in their qualification and/or in the nature of work. It is further submitted that disparity in payment of washing allowance is in complete violation of the principle of equal pay for equal work. It is further submitted that the pay scale prescribed by the

Central/State Government is not binding on MCD. It is further submitted that the MCD admitted before the Industrial Tribunal that the washing allowance of all C and D employees has been increased to Rs.60/- per month with effect from 20th July, 1993.

7. Learned counsel for the petitioner urged at the time of the hearing that the petitioner never admitted before the Industrial Tribunal that the washing allowance of all C and D category employees has been enhanced to Rs.60/- per month with effect from 20th July, 1993 and the Industrial Tribunal erred in recording the same. It is further submitted that the petitioner has placed on record the copy of O.M. No.257/AO(H)/EC(F)/2000 dated 22nd June, 2000; O.M. No.14/9/95-JCA dated 12th December, 2000; Circular No. F4(34)/CA/F&G/2001 1186 dated 14th September, 2001; Standing Committee resolution No.393 dated 22nd August, 2001 and Decision No.5349/GW/Corp dated 17th June 1996.

8. Vide order dated 02nd April, 2019, this Court directed the Central Government to place on record the relevant circular/OMs with respect to the washing allowance paid to C and D category employees working in hospitals/health department and the employees working in other departments whereupon the Central Government filed the relevant circulars. The Central Government has been consistently paying higher washing allowance to the hospital staff and the same had not been a subject matter of any challenge.

9. This Court is of the view that the nature of work of the C and D employees posted in the hospitals is different from the other employees. The work of the hospital employees is extremely arduous in nature. The nature of work of hospital staff are exposed to patients affected with communicable diseases, handling of infected materials, instruments and equipments which

could spread infections from human tissues or organs, through blood and other body fluids, pathological fluids and discharges, biochemical and microbiological samples. The nature of work also involves routine handling, exposure and contact with other hazardous samples like toxic, corrosive, inflammable, reactive or injurious substances, chemicals and radiations. Routine contact with patients due to the nature of work of the above said categories may lead to accidental or inadvertent transmission of communicable disease to these employees. Such constant and continuous exposure while discharging their official duties renders them vulnerable and susceptible for acquiring debilitating and life threatening communicable diseases. Further these employees are at a high risk of contacting hospital related infections from the patients or through other biohazards.

10. This Court is satisfied that payment of higher washing allowance to the hospital staff is founded on intelligible differentia which has a rational nexus to their nature of work and there is no infirmity in the payment of higher washing allowance to the C and D category employees in the hospitals. With respect to the admission of the petitioner noted by the Industrial Tribunal, it is noted that the petitioner nowhere admitted the respondent's claim either in their written statement or in their evidence. The petitioner placed on record all the relevant circulars in support of their defence. The admission of the petitioner appears to have been wrongly recorded by the Industrial Tribunal. The admission of the petitioner recorded by the Industrial Tribunal is therefore, set aside.

11. The writ petitions are allowed and the impugned awards as well as the recovery certificates are hereby set aside. Pending applications are disposed of.

12. Copy of this judgment be given *dasti* to learned counsel for the parties under signature of Court Master.

J.R. MIDHA, J.

JULY 31, 2019

ak

