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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5054/2020 & CM APPLs. 18235/2020, 18236/2020, 18237/2020**
NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Namrata Mukim, Standing
Counsel with Ms. Garima Jindal,
Advocate (M-9899106515)

versus

LIYAKAT ALI & ANR. Respondents
Through: Mr. Ajit Kalia & Mr. Abhinav Kalia,
Advocates for R-1 (M-9811184628)
Mr. Rajesh Agnihotri, Advocate for
R-2 (M-9868931054)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **07.08.2020**

1. This hearing has been held through video-conferencing.
2. The present petition has been filed by the North Delhi Municipal Corporation challenging the recovery certificate issued on 1st July, 2020 directing payment of Rs.9,38,183.50/- to Respondent No.1.
3. The submission of Ms. Namrata Mukim, ld. counsel for the Petitioner is that, initially, a settlement was entered into between the parties on 28th January, 2019, by which the amounts to be paid to Respondent No.1/workman (*hereinafter*, “workman”) were agreed upon. However, since there was a judicial proceeding and a family dispute, which are still pending, various amounts including Provisional Pension, GPF and GIS have been released, however, leave encashment and gratuity amounts have been

retained. She further submits that the calculation of the Labour Commissioner is also wrong and the amount due and payable would only be around Rs.5 lakhs. The calculation charts have been attached and are relied upon.

4. Mr. Kalia, Id. counsel appearing for the workman submits that the calculation charts relied upon by the Petitioner are incorrect. He further submits that the Corporation had several opportunities before the Labour Commissioner, however, the Corporation did not appear at all. He thus submits that the Petitioner is in fact guilty of misrepresenting the facts in the petition and no indulgence ought to be granted.

5. In response, Id. counsel for the Petitioner submits that the officer dealing with this matter was extremely ill and one of the officers had in fact passed away. Hence, there was a miscommunication with the Corporation.

6. Mr. Agnihotri, Id. counsel appearing for the Labour Commissioner submits that he has not received any instructions in this matter

7. The crux of the dispute is only with respect to the calculation of the amounts which are due and payable. The parties have already arrived at a settlement on the actual payments to be made. The calculation error, if any, can be pointed out to the Labour Commissioner by the Corporation.

8. Since the Corporation's stand is that approximately Rs.5 lakhs is due and payable to the workman, in view of the fact that there has been non-appearance by the Corporation before the Labour Commissioner an amount of Rs.2 lakhs is directed to be released to the workman within a period of four weeks from today. Subject to the said amount being released, the Corporation is permitted to move an application before the Labour Commissioner and seek any modification of the recovery certificate by

pointing out the calculation error. The workman is also permitted to raise its objections in respect of the calculation chart relied upon by the Corporation.

9. The application shall be filed by the Corporation within a period of 30 days along with the proof of release of Rs.2 lakhs. Upon filing of the application, the same shall be adjudicated within a period of three months. The amount of Rs.2 lakhs shall be adjusted against the final amount payable by the Corporation. Till then, no coercive measures shall be taken by the Labour Commissioner.

10. The petition is disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J

AUGUST 07, 2020

Rahul/C