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

Date of Decision: 17th August, 2021

\+ **W.P.(C) 5332/2020 & CM APPLs. 19254-55/2020**

NORTH DELHI MUNICIPAL CORPORATION ..... Petitioner

Through: Ms. Namrata Mukim, Standing Counsel with Ms. Garima Jindal, Advocate along with Ms. Sneh Arora, Office Superintendent, DEMS.

versus

ANITA RANI & ANR. ..... Respondents

Through: Ms. Meghna De, Advocate for R-1. Mr. Vivek Goyal, CGSC for R-2.

13 WITH

\+ **W.P.(C) 5334/2020 & CM APPLs. 19259-60/2020**

NORTH DELHI MUNICIPAL CORPORATION ..... Petitioner

Through: Ms. Namrata Mukim, Standing Counsel with Ms. Garima Jindal, Advocate along with Ms. Sneh Arora, Office Superintendent, DEMS.

versus

SUDESH KUMAR & ANR. ..... Respondents

Through: Ms. Meghna De, Advocate for R-1. Mr. Vivek Goyal, CGSC for R-2.

14 WITH

\+ **W.P.(C) 5335/2020 & CM APPLs.19261-62/2020**

NORTH DELHI MUNICIPAL CORPORATION ..... Petitioner

Through: Ms. Namrata Mukim, Standing Counsel with Ms. Garima Jindal, Advocate along with Ms. Sneh Arora, Office Superintendent, DEMS.

versus

NIRMALA & ANR. ..... Respondents

Through: Ms. Meghna De, Advocate for R-1. Mr. Vivek Goyal, CGSC for R-2.

15 AND

\+ **W.P.(C) 9577/2020 & CM APPL. 30716/2020**

NORTH DELHI MUNICIPAL CORPORATION ..... Petitioner
Through: Ms. Namrata Mukim, Standing Counsel with Ms. Garima Jindal, Advocate along with Ms. Sneh Arora, Office Superintendent, DEMS.

versus

SH. SURESH KUMAR & ORS. ..... Respondents
Through: Ms. Meghna De, Advocate for R-1.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.

2. The present petitions challenge the impugned awards dated 15th February, 2019 passed by the Central Government Industrial Tribunal cum-Labour Court (*hereinafter, 'CGIT'*) The case of the Petitioner/North Delhi Municipal Corporation (*hereinafter 'NrDMC'*) is that the Workmen were given notional regularization by an office order dated 2nd June 2014 w.e.f. April, 2004. However, sometime in 2015, due to agitations, etc, the word '*notional*' was removed vide circular dated 5th March, 2015.

3. Thereafter, the Workmen filed more than two thousand cases in several Labour Courts seeking arrears of regularization and pay for a period of ten years i.e. from 2004-2014. Post the passing of the impugned awards, the NrDMC issued another circular dated 11th December 2019, by which the word '*notionally*' was incorporated once again. According to the NrDMC, the matter needed to be remanded back to the CGIT for reconsideration owing to the circular dated 11th December, 2019. In effect, the argument was that in view of the said circular, the workmen were not entitled to regularisation and back wages.

4. On 7th April 2021 – Ms. Mukim, ld. Counsel for the NrDMC,

submitted that a policy decision was being taken by the NrDMC with regard to the issues raised in the present petitions and sought one week to file an additional affidavit in this regard.

5. A short additional affidavit dated 12th April, 2021 was filed by the NrDMC stating that the word '*notionally'* and the condition as mentioned in the circular dated 11th December, 2019 shall be treated as deleted. The said Circular No.ADC/DEMS/HQ/NDMC/2021/D-153 dated 3rd February, 2021 reads as under:

> *"Consequent upon the anticipatory approval of Hon'ble Mayor, North DMC regarding the amendment in the Corporation Resolution No. 549 dated 06-03-2014 and withdrawal of office order dared 11/12/2109, the word 'Notionally' and conditions under FR-17 mentioned in the circular no. AC/DEMS/HQ/NDMC/2019/D-434 dated 11-12-2019 be treated as deleted. However, the arrears would be paid as and when the financial condition of the Corporation improves.*
>
> *This is issued with the approval of the Competent Authority."*

6. However, on behalf of the Petitioner it was submitted that the matters ought to be remanded as there are calculation errors in the award as to how much is due to the workman. On the last date of hearing i.e., 3rd August 2021, in order to ascertain the calculations as per the NrDMC, directed that the calculations be filed in the form of a chart after computing the amount payable in terms of the new Circular dated 3rd February 2021.

7. Today, the said calculations have been placed on record, in all these matters.

8. Insofar as the calculations are concerned, in ***WP(C) 5332/2020***, Ms.

Mukim, ld. Counsel for NrDMC submits that there is no error in calculations and the amount which is payable to the Workman is Rs.7,77,583/-. The same is not disputed by Ms. Meghna De, ld. Counsel. Accordingly, ***WP(C) 5332/2020*** is dismissed as withdrawn in view of the circular dated 3rd February, 2021.

9. In ***WP(C) 5334/2020***, the calculations placed on record by NrDMC show that there is a minute difference between the amount awarded and the net amount payable. The amount awarded vide the impugned order is Rs.7,26,987/- and the net amount payable, as per the calculations placed on record, is Rs.7,25,596/-. Considering that the difference is less than even Rs.1,500/-, ***WP(C) 5334/2020*** is dismissed as withdrawn in view of the circular dated 3rd February, 2021.

10. In ***WP(C) 5335/2020,*** Ms. Mukim, ld. Counsel for NrDMC submits that there is no error in calculations and the amount which is payable to the Workman is Rs.7,40,698/-. The same is not disputed by Ms. Meghna De, ld. Counsel. Accordingly, ***WP(C) 5335/2020*** is dismissed as withdrawn in view of circular dated 3rd February, 2021.

11. In ***WP(C) 9577/2020,*** the calculations placed on record by NrDMC show that the arrears which are to be paid are only Rs.7,33,526/- and not Rs.8,58,280/- which has been admitted as regularisation arrears in the Written Statement before the CGIT. Ms. Meghna De, ld. Counsel however submits that the amount that is liable to be paid is admitted in the written statement. Ms. Mukim, ld. Standing Counsel for NrDMC, responds and submits that MACP arrears are not to be considered in this particular case, and only the arrears *qua* regularisation are to be considered. She further submits that there are errors in the manner in which it is calculated.

12. Since the question in this matter is only as to whether there is a discrepancy in the calculation of the arrears payable, the claim of the Workman is upheld in terms of the circular dated 3rd February 2021. However, in respect of the calculation of regularisation arrears, there is a difference of Rs.97, 909/-. NrDMC being a public corporation, since public money is involved, if there is any calculation error, the errors in the calculation ought to be examined by the CGIT, and if any rectification is to be made, the same ought to be done. It is accordingly deemed appropriate to direct the NrDMC and the Workman to make their respective submissions before the CGIT, so that the correct amount can be reflected in the award.

13. Parties to appear before the Presiding Officer, CGIT on 20th September, 2021 to make submissions only in respect of calculation of regularisation arrears. ***WP(C) 9577/2020*** is disposed of in the above terms.

14. All petitions are disposed of in the above terms. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

AUGUST 17, 2021
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