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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 8th September, 2020

+ **W.P.(C) 5332/2020 & CM APPLS. 19254/2020, 19255/2020**
NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Namrata Mukim, Standing
Counsel with Ms. Garima Jindal,
Advocate along with Mr. Gopal,
Deputy Commissioner, DEMS(HQ),
NDMC

versus

ANITA RANI & ANR. Respondents

Through: Ms. Meghna De, Advocate for Mr.
Rajiv Agarwal, Advocate for R-1.
Mr. Vivek Goyal, CGSC for UOI (M-
9810373320)
Mr. Ajay Kumar Pandey & Mr. LNP
Singh, Advocates for R-2

WITH

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+ **W.P.(C) 5334/2020 & CM APPLS. 19259/2020, 19260/2020**
NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Namrata Mukim, Standing
Counsel with Ms. Garima Jindal,
Advocate along with Mr. Gopal,
Deputy Commissioner, DEMS(HQ),
NDMC

versus

SUDESH KUMAR & ANR. Respondents

Through: Ms. Meghna De, Advocate for Mr.
Rajiv Agarwal, Advocate for R-1.
Mr. Vivek Goyal, CGSC for UOI
Mr. Madhu Sudan Bhayana, Advocate
for R-2 (M-9891617861)

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AND

+ **W.P.(C) 5335/2020 & CM APPLs. 19261/2020, 19262/2020**
NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Ms. Namrata Mukim, Standing

Counsel with Ms. Garima Jindal,
Advocate along with Mr. Gopal,
Deputy Commissioner, DEMS(HQ),
NDMC

versus

NIRMALA & ANR.

..... Respondents

Through: Ms. Meghna De, Advocate for Mr.
Rajiv Agarwal, Advocate for R-1.
Mr. Vivek Goyal, CGSC for UOI
Mr. Dwapayan Gupta & Mr. Shubham
Gupta, Advocates for GNCTD

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The hearing has been held through video conferencing.
2. Mr. Madhu Sudan Bhayana, ld. counsel appearing in W.P.(C) 5334/2020, and Mr. Ajay Kumar Pandey, ld. counsel appearing in W.P.(C) 5332/2020, both submit that these matters pertain to the Central Labour Commissioner and hence the Central Government would be representing in this matter. Accordingly, both the said counsels are discharged. Mr. Shubham Gupta, ld. counsel appearing for GNCTD, is also discharged from this matter. Mr. Vivek Goyal, ld. CGSC is appearing for the Central Labour Commissioner.
3. These three petitions arise out of the impugned awards dated 15th February, 2019, by which the services of all the employees have been regularized and past wages have been directed to be paid. The case of the North Delhi Municipal Corporation (*hereinafter* 'Corporation') is that initially, the regularization was only notionally done, as per the office order dated 2nd June, 2014, and hence none of the employees were entitled to back wages. However, thereafter, the word 'notionally' was removed, vide a circular dated 5th March,

2015, leading to the passing of the impugned awards.

4. Post the passing of the impugned awards, the Corporation has again issued a circular dated 11th December, 2019, by which the word 'notionally' was incorporated once again. According to the Corporation, the matter needs to be remanded back to the Central Government Industrial Tribunal (*hereinafter* 'CGIT') for reconsideration owing to the circular dated 11th December, 2019. In effect the argument is that in view of this latest circular, the workmen are not entitled to regularisation and back wages.

5. Vide order dated 18th August, 2020, the Corporation was directed to file an affidavit as to the chronology of events leading to such a circular being issued, after the order having been passed by the CGIT. An affidavit dated 3rd September, 2020 has been placed on record which is filed by Mr. Gopal, Additional Deputy Commissioner, DEMS(HQ), North Delhi Municipal Corporation. In the said affidavit, it has been explained that in view of the large number of employees who were getting the benefit and the consequent monetary impact upon the Corporation being several crores of rupees, the Corporation took a policy decision and issued the circular dated 11th December, 2019.

6. On the last date i.e. 18th August, 2020, it was noticed by this Court that all the three employees were being represented by one single authorized signatory, Mr. Abhinav Kumar, who is a practising lawyer. The employees were therefore directed to appear before this Court today, as also the authorized signatory. Upon interacting with the authorized signatory, it seems that he has been appointed as the authorized signatory since 2016-17 and was earlier stated to be with the Municipal Employees Union.

7. All the three employees, namely, Ms. Anita Rani, Mr. Sudesh Kumar and Ms. Nirmala are present in the hearing via video conferencing. Ms. Anita Rani is stated to be married to Mr. Rajesh Kumar Tank who is a Sanitary Inspector in

the Corporation. She joined the services of the Corporation in 1997 as a *Safai Karamchari* and is presently serving in the Mangolpuri area. Ms. Nirmala is married to Mr. Rakesh Kumar Tank, the brother of Mr. Rajesh Kumar Tank. She is also serving in the Corporation as a *Safai Karamchari* and she is also presently serving in the Mangolpuri area. Mr. Sudesh Kumar submits that he has been working with the Corporation since 1996, and is presently posted in Mangolpuri. He further states that he was referred to the authorised signatory by Mr. Rajesh Kumar Tank who he refers to as 'Baoji'. The husbands of Ms. Anita Rani and Ms. Nirmala are both brothers.

8. Mr. Gopal, Deputy Commissioner, DEMS (HQ), NDMC, who appears before this Court through video conferencing submits that the records relating to addition and removal of the word 'notionally' from the office order dated 5th March, 2015 have been placed on record.

9. All these three cases and there are several other cases involving regularization of employees and payment of back wages. The record which has been placed before this Court would be required to be perused in detail, to see if there is any reasoning for the manner in which such decisions are being taken, initially to regularize the employees 'notionally', thereafter to delete the word 'notionally', and thereafter to reincorporate the same. The entire process deserves a deeper examination by an independent person i.e., a senior official. It is submitted by Id. Counsels that there are more than 2000 cases involving identical issues which would be affected. Accordingly, it is directed that the Secretary, Ministry of Labour, Government of India, shall appoint a senior official to look into the records of the NrDMC, and give a proper detailed report on the following aspects:

- (i) The manner in which such policy decisions are being taken and changed from time to time, having an impact on all workmen as also the

exchequer of the Corporation.

(ii) The manner in which the employees who are so closely related to each other for eg., husbands and wives are being recruited by the Corporation as *Safai Karamcharis* and whether any proper process is being followed in their recruitment.

(iii) The records of all the employees affected by the Circulars mentioned above, shall be examined and a detailed status report shall be filed in this regard.

(iv) The report shall also make a preliminary assessment as to whether this policy decision applies to all the municipal corporations and if so, what is the financial impact of the same.

(v) Details of total payments made by the other Corporations such as SDMC, EDMC in respect of similarly placed employees following similarly passed orders by the CGIT. The total payments disbursed by the said Corporations, shall also be provided by means of a chart.

Let this report be filed within 8 weeks. Upon receiving of the status report, this Court shall consider as to whether the circular dated 11th December, 2019 would have any impact on the impugned awards passed by the CGIT.

10. The authorized signatory and workmen need not appear on the next date. The status report be filed at least five days before the next date of hearing and copies of the same to be supplied to the Id. counsel for the Corporation and to the Workmen.

11. List for further hearing on 23rd November, 2020. Interim orders to continue in the meantime.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 8, 2020

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