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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5627/2023

REENA KUMARI

..... Petitioner

Through: Mr. Pawan Kumar Bahl, Adv.

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. Tushar Sannu, Standing Counsel
with Mr. Sahaj Karan Singh, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

08.04.2024

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1. The present writ petition under Articles 226 and 227 of Constitution of India seeks a direction to the respondent to extend to her, the benefits of the directions issued by this Court in W.P.(C) 10383/2017.
2. At the outset, we may note that W.P.(C) 10383/2017 was filed by similarly situated employees who were co-applicants with the petitioner before the learned Tribunal in the same OA i.e., O.A. No. 3784/2015, which writ petition was allowed by this Court on 18.11.2019 by modifying the learned Tribunal's order.
3. Consequently, the respondents were directed to extend the benefits under the order passed by the learned Tribunal from the date of filing of the O.A. i.e., 16.10.2015 as against from the date of passing of the order, i.e., 05.04.2017 as directed by the learned Tribunal. We may also note at this stage itself that the respondent's challenge to the order dated 05.04.2017 passed in O. A. No. 3784/2015 already stands



rejected by this Court.

4. In support of the petition, learned counsel for the petitioner submits that once this Court has vide its order dated 18.11.2019 passed in W.P. (C) 10383/2017, clarified that the benefits granted under the order passed by the learned Tribunal on 05.04.2017, were required to be extended w.e.f. the date of filing of the O. A., the petitioner who was a co-applicant before the learned Tribunal cannot be deprived of the said benefit. He, therefore, prays that the writ petition be allowed by directing the respondent to extend the benefits of this Court's order passed in W.P. (C) 10383/2017 to the petitioner as well.
5. On the other hand, Mr. Tushar Sannu, learned counsel for the respondent, vehemently opposes the petition and submits that the petitioner, having accepted the impugned order and having not approached the Court for so many years, cannot now be extended the benefits of the order dated 18.11.2019 passed in W.P.(C) 10383/2017. Moreover, the respondent had already complied with the directions issued by the learned Tribunal by paying the due amount in terms of order dated 05.04.2017 to the petitioner on 04.03.2020. In support of his plea that fence sitters cannot be extended the benefits granted to other similarly placed persons, learned counsel for the respondent seeks to place reliance on the decision of the Apex Court in '*State of Uttar Pradesh vs. Arvind Kumar Srivastava*' 2015 (1) SCC 347. He, therefore, prays that the writ petition be dismissed.
6. Having considered the rival submissions of the parties, even though the plea of the respondent that the petitioner, having accepted the benefits under the learned Tribunal's order, could not seek any further



benefits appears to be attractive on the first blush, upon a closer scrutiny of the order dated 18.11.2019 passed in W.P.(C) 10383/2017, we find that this Court, had not interfered with the essence of the directions issued by the learned Tribunal but has only directed that payment in terms of the said order will be made from the date of filing the aforesaid O.A. i.e., 16.10.2015. It is not as if the petitioner having accepted the relief granted by the learned Tribunal is now seeking any different relief. All that the petitioner is claiming is that the said relief be extended from the date of filing of the O.A. as has been extended to his co-applicants by way of orders passed in W.P.(C) 10383/2017.

7. In the light of these circumstances, we are of the view that merely because the petitioner had received the benefits under the learned Tribunal's order from the date of passing of the order i.e., 18.11.2019, could not a ground for precluding her from raising a claim for seeking payment of the said amount from the date of filing of the O.A. as has been allowed to similarly situated 34 co-applicants in W.P.(C) No. 10383/2017. In fact, we are of the view that after passing of the order dated 18.11.2019, when this Court held that the benefits of the impugned order should be extended to the employees from the date of filing of the OA and not restricted from the date of passing of the order, the respondent ought to have itself extended the benefits of the said order to all similarly situated employees, instead of compelling each one of them to come to this Court for seeking the same relief.
8. For the aforesaid reasons, we allow the writ petition in the same terms as W.P. (C) 10383/2017 and direct the respondent to pay the differential amount in terms of the learned Tribunal's order dated



05.04.2017 from the date of filing of O. A., i.e. from 16.10.2015.
Payment in terms of this order be released in favour of the petitioner
within three months from today.

9. The writ petition stands disposed of in the aforesaid terms.

REKHA PALLI, J

MANOJ JAIN, J

APRIL 8, 2024

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