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

% *Date of decision: 19.02.2024*

+ **LPA 139/2024 and CM APPL. 10118/2024**

NARESH KUMAR

..... Appellant

Through: Mr Kshitij Pal, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr Divya Swamy, Standing Counsel
with Mr Yagyawalkya Singh, Mr
Shubham Mishra, Ms Akriti Singh,
Mr Rishav Ranjan and Mr Vaibhav
Shahi, Advocates.

CORAM:

HON'BLE MR JUSTICE RAJIV SHAKDHER

HON'BLE MR JUSTICE AMIT BANSAL

[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. This appeal is directed against judgment dated 14.12.2023. *Via* the impugned judgment, the learned Single Judge dismissed the writ petition filed by the appellant, whereby challenge was laid to the award dated 08.05.2023 rendered by the Industrial Tribunal in ID No.977/2016.
2. In the appeal, the appellant had raised two grievances. First, concerning the failure to regularize him from the date of appointment. Second, that his pay scale should have been upgraded to Rs.4,000-6,000.
3. What is not in dispute, and something which has been noticed by the



learned Single Judge, is that the appellant had filed writ petition in this regard, which was transferred to the Central Administrative Tribunal and disposed of on 07.07.2009. The Industrial Tribunal having regard to the fact that the appellant had approached the Central Administrative Tribunal, had rejected his claim *via* the award dated 08.05.2023.

4. The learned Single Judge thus dismissed the writ petition by observing that the appellant could not “sail in two boats”. It appears that certain other co-workers also had their claims rejected by the Central Administrative Tribunal *via* order dated 07.07.2009, and thereafter, approached the Industrial Tribunal. The co-workers’ action was registered as ID No.42 of 2016, titled ***Brijesh Sharma and Ors. v. The Management of Municipal Corporation of Delhi***. The Industrial Tribunal, insofar as this set of workers was concerned, granted them relief *via* award dated 01.12.2021. The operative directions issued by the Industrial Tribunal read as follows:

“...In view of the observations made here-in-above, the reference is answered in favour of the workmen with the direction that workmen have to be regularized on the date when they complete four years from initial date of their appointment with consequential benefits...”

5. We are told by the counsel for the respondent i.e., MCD that the said award, i.e., award dated 01.12.2021, has been assailed by the MCD *via* a writ action i.e., WP(C) 14051/2022. In this context, our attention is drawn to Annexure P-5 appended on page 136 of the case file. This writ petition, we are told, is listed on 09.05.2024.

6. We may observe that *via* order dated 28.09.2022 in WP(C) 14051/2022, the learned Single Judge, while issuing notice, has granted stay



vis-à-vis regularization of the concerned workmen/ However, while doing so the Single Judge has indicated that the other benefits would be released to the workmen within eight weeks, subject to the final outcome in the writ petition.

7. Given this position, we are of the view that the best way forward would be to set aside the impugned order and revive the writ petition filed by the appellant, so that the appellant's case can be dealt along with those of his co-workers. This would enable the learned Single Judge to take a uniform view with regard to the workmen who are placed in similar circumstances.

7.1 It is ordered accordingly.

7.2 The impugned judgment is set aside. The writ petition shall stand revived.

8. The parties will appear before the learned Single Judge on 29.02.2024.

9. The learned Single Judge would be at liberty to adjudicate the instant writ petition concerning the appellant along with WP(C) 14051/2022.

10. The appeal is disposed of in the aforesaid terms. Consequently, pending application shall also stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

FEBRUARY 19, 2024/ tr