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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 7496/2021 and CM APPL. No. 23523/2021 and 23594/2021
NORTH DELHI MUNICIPAL CORPORATION Petitioner
Through: Ms.Namrata Mukim, SC

versus

SMT. CHANDRA SHARING & ORS. Respondents
Through: Ms.Meghna De, Advocate

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER
23.04.2024

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1. The petitioner vide the present petition under Articles 226 and 227 of the Constitution of India, seeks the following reliefs:

*“ (a) Stay the operation of the impugned Recovery Certificate dated 07.10.2020 issued by the office of the Deputy Labour Commissioner (CD), Employment Exchange Building, Pusa Campus New Delhi-110012 vide F-No.23(10) Imp/APP.II/CD/2020/3226 starting that a sum of Rs.2,92,672/- for the period from 01.01.2017 to 29.02.2020 is due in favour of the workman in pursuance to the implementation of the award dated 13.05.1988 in Industrial Dispute No. 148/1987 (Old No.44/79), in favour of Smt. Chandra Sharing retired from Girdhar Lal Maternity Hospital, City SP Zone, till the disposal of the present writ petition; or
(b) Pass such other order/orders as this Hon’ble Court deem fit in the present facts and circumstances of the case.”*

2. Learned counsel appearing on behalf of the respondents submitted



that the instant petition is squarely covered by the decision of the Co-ordinate Bench of this Court titled ***South Delhi Municipal Corporation V. Dy. Labour Commissioner (District South) & Anr.***, dated 10th February, 2023 in W.P.(C) No. 3978/2016 and has placed reliance on paragraph 8 of the said decision wherein it was held that in case where a recovery certificate is challenged and there is a question of fact raised by the petitioner in writ jurisdiction and that too at a belated stage, the writ Court may not entertain the same, as under writ jurisdictions the High Court cannot adjudicate on factual dispute and prayed that the instant petition be disposed of in light of the aforesaid judgment.

3. Learned counsel appearing on behalf of the petitioner does not dispute the observations made in the said judgment, however, she vehemently opposes the prayer sought by the learned counsel appearing on behalf of the respondent.

4. Heard the learned counsel appearing on behalf of the parties and perused the judgment dated 10th February, 2023 in ***South Delhi Municipal Corporation V. Dy. Labour Commissioner (District South) & Anr (Supra)*** as well as the records of the instant petition.

5. Before advertng to the merits of the instant petition this Court shall peruse paragraph 8 of the said judgment which reads to the effect:

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8. *In the light of these categoric findings of the learned Deputy Labour Commissioner, I am inclined to agree with the respondent that the petitioner cannot now, at this belated stage, be permitted to urge that the respondent was wrongly paid her differential wages for the period till 30.06.2013, and therefore, should not be paid any amount for the period 31.07.2013 to 31.07.2015 as has been directed vide the*



impugned recovery certificate. Even otherwise, the finding that the respondent had worked against the post of grade “A” nurse, is a question of fact, which cannot be said to be perverse in any manner warranting exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India and that too at this belated stage, when the award in furtherance where to the impugned recovery certificate was issued, was passed way back in 1988.”

6. It has been enunciated in the aforesaid judgment that it is a settled position of law that the High Court under its writ jurisdiction shall not entertain factual disputes pertaining to the discrepancy in the recovery certificate.

7. In the instant petition, the petitioner has challenged the impugned recovery certificate on the ground that the respondent never worked as A-Grade Staff. Since the instant petition involves a disputed question of fact, the Court under Article 226 of the Constitution of India, cannot intervene into the same.

8. In light of the aforesaid discussion, the instant petition stands dismissed.

9. The pending applications, if any, also stand dismissed.

CHANDRA DHARI SINGH, J

APRIL 23, 2024
SV/DB

[Click here to check corrigendum, if any](#)