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

+ **W.P.(C) 14528/2022, CM APPLs. 44424/2022 and 24109/2023**

SMRITI TIWARI

.....Petitioner

Through: Ms. Kawalpreet Kaur and Mr. Umesh
Kumar, Advocates

versus

UNION OF INDIA AND ANR

.....Respondents

Through: Mrs. Amrita Prakash, CGSC with Mr.
Vishal Ashwani Mehta and Mr. Hansraj Bhardwaj,
Advocates for R-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

14.08.2024

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1. This writ petition has been preferred on behalf of the Petitioner seeking the following reliefs:

"1. Direct the Respondent hospital to reinstate the Petitioner with all statutory benefits and to not terminate the services of the Petitioner.

2. Direct the Respondent no. 1 and 2 to comply and implement Maternity Benefit (Amendment) Act, 2017 at respondent premises.

3. Direct respondent to provide crèche facilities at respondent hospital in compliance with Maternity Benefit (Amendment) Act, 2017 which directs every establishment having fifty or more employees to have the facility of crèche within a prescribed distance.

4. Direct the Respondent hospital to quash the letter dated 28.04.2022 terminating the services of Petitioner w.e.f. 20.09.2021 despite Petitioner having worked in the respondent hospital till 21.02.2022 after which she availed maternity leave.

5. Direct the Respondent hospital to pay the Petitioner with full back wages since 01.10.2021 until 21.02.2022 and to provide her paid maternity leave for 180 days following her leave.

6. Direct the Respondent no. 1 and 2 to immediately halt victimising and terminating women employed as contractual employees in respondent hospital availing maternity benefits."

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2. From a reading of the writ petition, it is apparent that the reliefs claimed are in the realm of service matter disputes and the Respondents against whom the reliefs are claimed are Union of India through Secretary, Ministry of Health and Family Welfare and Dr. Ram Manohar Lohia Hospital and therefore the remedy of the Petitioner lies before the Central Administrative Tribunal, as Court of first instance, by virtue of Section 14 of The Administrative Tribunals Act, 1985 and judgment of the Constitution Bench of the Supreme Court in *L. Chandra Kumar v. Union of India and Others*, (1997) 3 SCC 261.

3. Ordinarily, this Court would have permitted the Petitioner to withdraw this petition to take recourse to appropriate remedy, however, considering that the writ petition was filed in the year 2022 and there are interim orders in favour of the Petitioner, this Court deems it appropriate under these facts and circumstances to dispose of this petition by transferring this petition before the Central Administrative Tribunal. Petition shall be listed before the learned Chairman on 03.09.2024 for appropriate orders and further proceedings.

4. Registry is directed to transmit the entire record of the writ petition to the Tribunal before the next date.

5. Petition stands disposed of in the aforesaid terms along with the pending applications, making it clear that this Court has not expressed any opinion on the merits of the case.

JYOTI SINGH, J

AUGUST 14, 2024/kks

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