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

Date of Decision: 19.09.2024

+ **W.P.(C) 11143/2024 & CM APPL. 46043/2024**

SONI GHOSH AND ORS

.....Petitioner

Through: Ms. Meghna De, and Ms. L.
Gangmei, Advs.

versus

**DELHI STATE INDUSTRIAL AND INFRASTRUCTURE
DEVELOPEMENT CORPORATION AND ORS**

.....Respondents

Through: Mr. R.K. Dhawan, Standing Counsel,
Ms. Nisha Dhawan, Mr. V.K. Teng
and Mr. Hasan Haider, Advs. with
Ms. Sunita Madhusudan and Mr.
Shahzeb Naqvi, Managers for /R-
1/DSIIDC.
Mr. Shivnath Kumar, Adv. with Ms.
Farzana, Adv. for R-2.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. Notice in this Petition was issued by this Court on 12.08.2024 when this Court passed the following directions:

“....

3. *The present Petition has been filed praying for directions to the Respondent Nos. 1 and 2 to maintain status quo in the service conditions of the Petitioners [20 in number] and not to terminate their services during the pendency of the Industrial Dispute.*

4. *Learned Counsel for the Petitioners further submits that the Petitioners have raised an Industrial Dispute and filed their Statement of Claim on 24.07.2024 before the Respondent No. 3. In pursuance thereof, a Notice dated 31.07.2024 has been issued by the*



Conciliation Officer.

5. *Learned Counsel for the Petitioners submits that the Respondent No.1 is in the process of terminating their services and that the Petitioners apprehend that this is a counter-measure for raising Industrial Dispute for regularisation of their services. She submits that the Petitioners apprehend immediate termination of their services.*

6. *Issue Notice.*

6.1 *Learned Counsel for the Respondent No. 1 accepts Notice and requests for some time to take instructions. If instructions are received to resist the Petition, let Affidavit/Counter-Affidavit be filed within a period of four weeks. Rejoinder, if any, be filed within a period of two weeks thereafter.*

7. *In the meantime, let no coercive steps be taken in respect of the services of the Petitioners till the next date of hearing....”*

2. Learned Counsel for the Petitioners (20 in number), at the outset, restricts the prayer in the present Petition to the following:

“....directing the Respondent No.1 and 2 to maintain status quo in the service condition of the Petitioners and not to terminate their services during the pendency of the industrial dispute....”

3. Learned Counsel for the Petitioners submits that this is without prejudice to the rights of the Petitioners to adjudicate the remaining prayers before the appropriate forum in accordance with law.

4. No Counter-Affidavit has been filed.

4.1 Learned Counsel for the Respondent No.1 and 2, who are the contesting Respondents, submits that given the orders that this Court proposes to pass, they do not wish to file a Counter-Affidavit.

5. It is further submitted that the Petitioners apprehend that the Respondent No. 1/DSI IDC may terminate their services despite the fact that an industrial dispute is pending adjudication. He further states that during



the period that proceedings are pending under Section 33 of the Industrial Disputes Act, 1947 [hereinafter referred as “the Act”], the service condition(s) of the workman cannot be disturbed.

6. Learned Counsel for the Respondent No.1/DSIIDC submits that it is not in dispute that the Petitioners had already approached the Conciliation Officer/Deputy Labour Commissioner for the adjudication of dispute and by a Notice dated 31.07.2024 the same was referred to the Office of Assistant Labour Commissioner, Government of NCT of Delhi, Employment Exchange Building, Pusa Road, Delhi.

7. Section 33(1)(a) of the Act specifically provides that no employer shall alter the conditions of service applicable to the workmen to the prejudice of the workmen during the pendency of proceedings before the Conciliation Officer or a Board or any proceeding before an Arbitrator or a Labour Court or Tribunal. Section 33 (1) (a) reads as follows:

“33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings.—(1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before 2 [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding.....”

8. A review of this provision shows that if a matter is pending before the Industrial Tribunal, the conditions of the services of the workmen who are part of such proceedings, shall remain unchanged during the pendency of such industrial dispute.

9. In these circumstances, it is directed that the services of the



2024:DHC:7403



Petitioners shall not be disturbed and *status quo* in regard to his employment shall be maintained during the pendency of the industrial dispute.

9.1 It is clarified that the order is being passed without prejudice to the rights of the Petitioner to seek adjudication of his remaining prayers before the appropriate forum and in accordance with law.

10. The Petition alongwith all pending Applications stand disposed of in the aforesaid terms.

11. Parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

SEPTEMBER 19, 2024/SA

Click here to check corrigendum, if any