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

% ***Date of decision: 20th August, 2024***

+ LPA 802/2024 & CM APPL.47460-62/2024

MUNICIPAL CORPORATION OF DELHIAppellant

Through: Ms. Sriparna Chatterjee, Standing
Counsel

Versus

PRAMOD BHAN AND OTHERSRespondents

Through: Ms. Nandita Abrol, Ms. Meghna De,
Ms. Komal Narula and Mr. Laksh
Tuli, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (oral)

1. The present Appeal has been preferred under Clause 10 of Letters Patent against judgment and order dated 31.05.2024 passed by this Court in W.P.(C) 16307/2023.
2. Learned counsel for appellant has informed that the order dated 31.05.2024 passed in W.P.(C) No. 3339/2024, was assailed before this Court in LPA720/2024, which has been decided on 14.08.2024. Learned counsel submits that the relief sought in the present appeal is similar to one sought in LPA720/2024 and this appeal can be disposed of in terms thereof.
3. Ms. Nandita Abrol, Advocate, appearing on behalf of respondents accepts notice and affirmed the above submission made on behalf of appellant.
4. Pertinently, the order dated 31.05.2024 is a common order passed in W.P.(C) No. 16307/2023 and W.P.(C) No. 3339/2024, which was assailed



before this Court in LPA 720/2024. The writ petition being W.P.(C) No. 3339/2024 was preferred by the appellant against the judgment and order dated 11.08.2023 passed by the learned Tribunal whereby the Industrial Reference was decided in favour of the respondents therein, directing regularization of their service on the post of 'Assistant Malaria Inspector' with effect from their initial dates of joining with consequential benefits within 60 days, failing which the appellant would be liable to pay 8% interest. This Court taking elaborative note of the facts in the said case observed and held as under:-

"12. As mentioned above, present is not a case where the employees have approached this court through writ action, seeking regularization of their services. The respondents herein, being workmen, raised industrial dispute on the allegation that the appellant had been indulged in unfair labour practice by keeping the respondents in job on temporary basis since the year 2010 and the industrial adjudicator on the basis of evidence adduced during trial arrived at a finding in that regard against the appellant. There is no dispute that the engagement of the respondents in the year 2010 was against sanctioned posts. Also admittedly, the respondents were engaged as contractual workers through a selection process pursuant to an advertisement, so it is not a case where the respondents were engaged surreptitiously, thereby depriving the members of general public, willing to compete. It also cannot be denied that the job of Malaria control and public health issues are perennial in nature and requirement to man those posts of Assistant Malaria Inspector continues till date. It is also nobody's case that the respondents do not possess the requisite qualifications for the job in question.

13. The respondents were engaged on contractual basis in the year 2010 and continue to be paid remuneration



much lesser than their counterparts performing same function with same working hours. The appellant has brought forth not even a whiff to justify their failure to fill the regular posts in past more than a decade if the respondents had been engaged only for a short time till filling up the regular posts. Admittedly, till date a number of regular posts are lying vacant; and ironically on the other hand, the respondents performing the same job continue on temporary basis for the past more than a decade with sword of uncertainty hanging over their head.

14. We are of the considered view that once the learned Industrial Tribunal arrived at a finding that the appellant was indulging in unfair labour practice, the Tribunal was completely justified in directing the appellant to regularize the respondents and in that regard, the appellant has failed to show any reason for us to interfere with the discretion exercised by the learned Tribunal.”

5. The appellant has assailed the impugned judgment dated 31.05.2024 against the respondents who were working as ‘Assistant Public Health Inspector’.
6. Having regard to the fact that this Court vide judgment dated 14.08.2024 has already upheld the impugned judgment dated 31.05.2024 passed by the learned Single Bench, the present appeal is disposed of in terms thereof.
7. Pending applications are disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

AUGUST 20, 2024/rk/r