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

+ **W.P.(C) 7347/2020 & CM APPLs. 24678-79/2020**

NEW DELHI MUNICIPAL COUNCIL

..... Petitioner

Through: Mr. Vaibhav Agnihotri, Advocate.
(M:9582910000)

versus

RAJESH

..... Respondent

Through: None.

With

+ **W.P.(C) 7481/2020 & CM APPLs. 24969-70/2020**

NEW DELHI MUNICIPAL COUNCIL

..... Petitioner

Through: Mr. Vaibhav Agnihotri, Advocate.
(M:9582910000)

versus

RAJESH

..... Respondent

Through: None.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% 06.10.2020

1. This hearing has been held through video conferencing.
2. The present two petitions have been filed challenging two awards, dated 8th July, 2019 and 25th July 2019, passed by the Presiding Officer, Labour Court, Rouse Avenue Courts. In the first award, dated 8th July, 2019, in DID No. 2420/16, titled *Rajesh v. New Delhi Municipal Corporation*, the Workman has been awarded the following reliefs:

- i) A sum of Rs.10 lakhs as compensation on a lumpsum basis in view of his unemployment status for the years 2008-2019;
- ii) Reinstatement, and deemed to be in continuous service from 11th



May, 2005 till date;

iii) Directed to be reconsidered for a grant of the status of a Regular Muster Roll employee, by the New Delhi Municipal Corporation (*hereinafter*, “NDMC”).

3. Vide the second award dated 25th July, 2019, in LCA No. 865/16, titled *Rajesh v. New Delhi Municipal Corporation*, the Workman has been awarded a sum of Rs.5 lakhs as compensation due to his unemployment status for the period from 2005 to 2008.

4. The submission of Mr. Agnihotri, ld. counsel for NDMC is that there was an initial award dated 11th May, 2005, passed in an industrial dispute filed by the Workman in ID No. 778/96, titled *The Workman Sh. Rajesh Kumar v. The Management of M/S New Delhi Municipal Corporation*. Vide the said award, the Workman was reinstated on the regular muster roll with no back wages. Ld. counsel, submits that despite the passing of the said order on 11th May, 2005, the Workman did not report for work till February, 2006. Finally, he joined service on 22nd April, 2008, and on 16th May, 2008, his engagement was discontinued by an office order. It is further submitted that since 2008, the Workman has not worked for NDMC, and even prior to that he was only a daily wager. Accordingly, the impugned awards have been challenged by the Petitioner.

5. After perusing the three awards in question i.e. 11th May, 2005, 8th July, 2019 and 25th July, 2019, it is clear that the Workman has not rendered any services, whatsoever, for the NDMC, since 17th May, 2008. Even after the passing of the initial award dated 11th May, 2005, the Workman has barely worked for few months, in the three year period until his services were discontinued.



6. Insofar as the award of back wages is concerned, the award dated 11th May, 2005 and the impugned awards dated 8th July, 2019 and 25th July 2019 have contradictory findings. In the first award, the Labour Court holds that the Workman could not have remained unemployed in the meantime. However, in the impugned awards, a lump sum has been granted on the ground of unemployment of the Workman. Mr. Agnihotri, Id. counsel for NDMC, submits that there was no evidence led by the Workman to show that he remained unemployed, and the onus is on him to prove the same. He further submits that even after the impugned award dated 8th July, 2019, the Workman has not reported to join duty.
7. Issue notice to the Respondent/Workman, returnable on the next date of hearing. Subject to a deposit of Rs.2 lakhs, within a period of four weeks, with the Registrar General of this Court, the impugned awards dated 8th July 2019 and 25th July, 2019, shall remain stayed.
8. List on 15th December, 2020.

PRATHIBA M. SINGH, J.

OCTOBER 6, 2020
dj/Ak