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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9490/2024, CM APPLs. 38947/2024, 38948/2024 & 38949/2024

MUNICIPAL CORPORATION OF DELHI

.....Petitioner

Through: Ms. Sriparna Chatterjee, SC

versus

SHIV PRASAD AND ORS

.....Respondents

Through: Ms. Kamalakshi Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER
26.09.2024

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CM APPLs. 38948/2024 & 38949/2024 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. Applications are disposed of.

W.P.(C) 9490/2024, CM APPL. 38947/2024

3. By the impugned order, the learned Central Administrative Tribunal has directed the respondents, who are Staff Nurses in the Municipal Corporation of Delhi, to be granted the pay and allowances as were granted by this Court to similarly situated Staff Nurses by judgment dated 4 July 2013 in WP (C) 3769/2013.



4. Ms. Sriparna Chatterjee, learned Standing Counsel appearing for the petitioner, submits that the respondents have, in fact, been given the benefits as directed by the Tribunal from 2013. However, the issue that arises for consideration is whether the respondents would be entitled to arrears w.e.f. 8 October 2010.

5. Paras 6 and 7 of the impugned judgment of the Tribunal read thus:

“6. In the counter reply the respondents have stated that it is by implication that applicants in the present O.A. are similarly and identically placed to the applicants who approached the Tribunal and Hon’ble High Court. Therefore, it was incumbent upon the respondents to extend the benefits granted by the Hon’ble High Court in the W.P. (C) No. 3769/2013 from the same date. Further, it is seen that though the applicants are discharging similar and identical duties and functions, the only reason for non grant of the benefits is that the respondents (MCD) at that particular time were trifurcated and were facing some financial crunch. Today, after the unification of MCD, this issue stands resolved.

7. In view of the aforesaid facts and circumstances, the O.A. is allowed. The respondents are directed to grant the present applicants the benefit of arrears with effect from 08.10.2010 as has been granted to the petitioners therein by the Hon’ble High Court of Delhi in W.P.(C) No. 3769/2013.”

6. When one reads the judgment in WP (C) 3769/2013, the position that emerges is that the reason for directing arrears of pay to be granted to the petitioners in that case, w.e.f. 2010, is thus stated in paras 18 and 19 of the judgment:

“18. We allow the writ petition directing the second respondent to pay salary and allowances to the petitioners as also to all other Staff Nurses and para-medics by including therein not only the Basic Pay, Grade Pay and Dearness Allowance but such other allowances as are being paid by the Government of NCT of Delhi to its contract appointed employees as per the letter dated November 19, 2012.



19. Since the petitioners had first approached the Tribunal in the year 2010 when they filed OA No.3327/2010 we direct arrears to be paid to the petitioners with effect from the date when OA no.3327/2010 was filed.”

7. Ms. Sriparna Chatterjee submits that the learned Tribunal, in the present case, erred in mechanically directing the respondents to be granted arrears of pay w.e.f. 2010. The petitioners in WP (C) 3769/2013 were granted the said benefit because they had filed their OA in 2010.

8. Ms. Sriparna Chatterjee submits that the respondents had, in fact, filed the OA and approached the Tribunal in 2015. The Tribunal could not, therefore, have directed the respondents to be granted arrears of pay from 2010. She submits that, in fact, the respondents have been granted arrears of pay from 2013.

9. In that view of the matter, issue notice to show cause as to why rule *nisi* be not issued.

10. Notice is accepted on behalf of the respondents by Ms. Kamlakshi Singh, Advocate.

11. Counter affidavit, if any, be filed within four weeks with advance copy to learned counsel for the petitioner who may file rejoinder thereto, if any, within four weeks thereof.

12. Re-notify on 21 January 2025.



13. Till the next date of hearing, the operation of the impugned judgment of the learned Tribunal shall stand stayed.

C.HARI SHANKAR, J

DR. SUDHIR KUMAR JAIN, J

SEPTEMBER 26, 2024/aky

Click here to check corrigendum, if any