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

+ **W.P.(C) 12184/2024 & CM Appl.50687/2024**

MUNICIPAL CORPORATION OF DELHIPetitioner

Through: Mr. Sanjeev Sagar and Ms. Nazia
Parveen, Advs.

versus

SMT. MEENA

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **02.09.2024**

CM Appl.50688/2024*[Exemption from filing certified copies and typed copies]*

1. Allowed, subject to the Petitioner filing certified and typed copies of the annexures within a period of two weeks.
2. The Application stands disposed of.

W.P.(C) 12184/2024 & CM Appl.50687/2024*[Stay]*

3. The present Petition has been filed on behalf of the Petitioner impugning an award dated 16.01.2024 passed by the Central Government Industrial Tribunal – cum – Labour Court, New Delhi [hereinafter referred to as “the Impugned Award”]. By the Impugned Award, the learned Labour Court has while considering an Application under Section 33C(2) of the Industrial Disputes Act, 1947 [hereinafter referred to as “the Act”] has directed a payment of Rs.14,08,858/-.



3.1 In addition, learned CGIT also granted interest at the rate of 6% per annum on the said amount until the date of realization.

4. Learned Counsel for the Petitioner submits that, at the outset, so far as concerns the issue of award of interest under Section 33(C)(2) of the Act, the same is no longer *res integra*. Relying on the judgments of Coordinate Benches of this Court in ***King Airways v. Captain Manjeet Singh***; 2013 SCC OnLine Del 577 and in ***Indraprastha Power Generation Company Ltd. v. Ishwari Devi***; 2007 SCC OnLine Del 1494, it is contended that interest cannot be granted. It has been held by this Court in the aforesaid judgments that the learned Labour Court in exercise of its power under Section 33C(2) of the Act cannot enlarge the scope of the provision by arrogating to itself, the function of adjudicating the dispute relating to the claim of interest made to the Respondent at this stage.

5. Learned Counsel for the Petitioner further submits that no adjudication or quantification has been undertaken by the learned Labour Court in the Impugned Award. He seeks to rely upon paragraph 8 of the statement of claim filed by the Petitioner to submit that in the first instance, the application/statement of claim was made under Section 33(C)(2) of the Act by the Respondent. He further submits that a statement of claim was filed by the Respondent which did not set out the basis for entitlement to the said amount.

5.1 In addition, learned Counsel for the Petitioner, on instructions, submits that as per their calculation, only a sum of Rs.1,30,026/- is due and payable to the Respondent. He seeks to rely upon the calculation sheet which was filed before the learned Trial Court.

5.2 Learned Counsel for the Petitioner further submits that this statement



of claim was not filed pursuant to a reference, neither was any industrial disputes raised by the Respondent prior to filing of this Application under Section 33(C)(2) of the Act before the Court. He seeks to rely upon a judgment of the Supreme Court in the matter of ***State of U.P. and Another v. Brijpal Singh***; (2005) 8 SCC 58 to submit that Section 33(C)(2) are in the nature of an Execution proceeding and the right to the money which is sought to be paid, has to be adjudicated upon, before payment is directed to be made by the learned Labour Court. He submits that this exercise was not undertaken by the learned Labour Court prior to passing of the Impugned Award.

6. The matter requires examination.
7. Issue Notice. On steps being taken, let Notice be served to the Respondent *via* all modes, *dasti* as well. An affidavit of service be filed within a week.
8. Counter-Affidavit be filed within a period of four weeks.
- 8.1 Rejoinder, if any, be filed before the next date of hearing.
9. Subject to the deposit of the amount of Rs. 14,08,858/- by the Petitioner within a period of three weeks, the operation of the Impugned Award passed by the learned Labour Court be kept in abeyance till the next date of hearing. It is clarified that in the event no deposit is made within the stipulated time, these interim directions shall automatically stand dissolved.
10. List along with W.P.(C)12167/2024 on 24.10.2024 at 4 PM.
11. In the meantime, Learned Counsel for the parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least one week before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon.



11.1 All judgments sought to be relied upon by the learned Counsel for the parties shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.

TARA VITASTA GANJU, J

SEPTEMBER 2, 2024/r

Click here to check corrigendum, if any