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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 446/2012

Date of Decision: 19th July, 2013.

SOM PRAKASH Petitioner
Through Ms. Deepali Gupta, Advocate.

versus

V K GUPTA Respondent
Through Mr. Praveen Kumar and Mr. Anuj Singh,
Advocates.

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

SUDERSHAN KUMAR MISRA, J. (ORAL)

The rejoinder has not been filed.

On 25th November, 2011, the petitioner's appeal, being LPA No.566/2011, was allowed holding, inter alia, as follows:

“2. Therefore, the respondent could recover the rent for a period preceding three years from 16th March 2009 i.e. from 17th March, 2006 till the date the appellant vacated the premises.

3. The appeal is allowed in part to the aforesaid extent. The respondents have already recovered the penal rent calculated by the Estate Officer i.e. ₹689695 from the retiral dues of the appellant. The actual damages payable by the appellant for three years, as mentioned above, shall be calculated and balance amount shall be paid back to the appellant within a period of one month.”

Since the respondent was entitled to recover damages only for the

preceding three years, i.e. from 17th March, 2006 till the date the appellant vacated the premises, and, admittedly, the premises were vacated on 25th May, 2009; and the balance lying in the hands of the respondents from the amount of Rs.6,89,695/-, that they had originally deducted from the retiral dues of the petitioner, had to be refunded. In other words, balance had to be refunded to the petitioner by 24th December, 2011 in terms of the aforesaid judgment.

It is now obvious that the total amount which was to be refunded to the petitioner came to Rs.3,64,900/-, which was paid in the following manner:

- (i) An amount of Rs.2,03,160/- was refunded on 14th August, 2012 by cheque bearing No.536920;
- (ii) A further amount of Rs.1,61,740/- was paid to the petitioner on 3rd July, 2013 by cheque bearing No.904264.

There can be no gainsaying the fact that refund has been substantially delayed.

The petitioner was initially employed as a Class IV employee where he was working as Khalasi and, thereafter, he was promoted to Class III employee and worked as Depot Storekeeper by the time he retired. Obviously, there is no plausible defence to this unconscionable delay in complying with the order of the Court, thereby keeping the petitioner out of the amounts due to him, even after he had secured a judgment in his favour by way of appeal on 25th November, 2011. The petitioner has been made to run from one institution to the next to secure his rights; first before the Central Administrative Tribunal, then before the Writ Court and, ultimately, before the Appellate Court. There is clearly no defence to the non-implementation of the Court's orders. To my mind, the interest of justice would be best served by a further payment by way of a fine and

compensation of Rs.35,000/-. This amount to be paid to the petitioner by the Northern Railways within four weeks from today. However, it would be open to the Northern Railways to recover this amount from any person or persons whom it finds responsible.

This petition stands disposed off in the above terms.

SUDERSHAN KUMAR MISRA, J

JULY 19, 2013
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