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

Judgment delivered on: 9th April, 2015

+ CONT.CAS(C) 92/2014 & CM Nos.9590/14, 15410/14,
15411/14,18984/14, 20790/14, 17278/14

SHRI KAMLA SINGH

..... Petitioner

Represented by: Mr. Sarvesh Bisaria and
Mr. Prakash Chandra Sharma, Advs.

versus

SHRI P K GUPTA COMMISSIONER, NORTH DELHI
MUNICIPAL CORPORATION

..... Respondent

Represented by: Ms. Prabhsahay Kaur, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The contempt proceedings are predicated on the alleged non-compliance of the directions issued by this Court on 11.10.2013 while disposing of writ petition No.4273/2013.

2. I note, vide the aforesaid order, directions were passed as under:-

“We set aside the order of the Tribunal and direct the petitioner to claim the amount in question i.e. Rs.2,78,785/- from the respondent with interest @ 9% per annum from the date it became due till

today by adjusting from the arrears of dearness allowance due to the respondent by calculating the dues with interest of 9% from the date it was due till the date of actual payment and pay the balance to the respondent. If a further amount has to be claimed from the respondent, the petitioner would intimate the respondent in that regard within a period of four weeks and the respondent accordingly satisfy the said claim within four weeks thereafter.”

3. It is not in dispute that the respondent has recovered the amount of Rs.2,78,785/- from the petitioner with interest at the rate of 9% *per annum* from the date it became due till date of order, i.e., 11.10.2013. It is also not in dispute that the dearness allowance was adjusted against the dues due to the petitioner. The interest of 9% has also been recovered on the dues which were due to the petitioner.

4. The grievance of the petitioner is that the respondent withheld the dearness allowance from 01.07.1997 till date, whereas vide order dated 11.10.2013, the Division Bench of this Court directed the respondent to adjust the amount from the dearness allowance by calculating 9% interest *per annum* thereon.

5. The moot question before this Court is that whether this Court vide order dated 11.10.2013 directed the respondent to pay 9% interest on the dearness allowance. In para one of the said order, it is recorded by the Court, the respondent impugned the order dated 07.05.2013 of the Central Administrative Tribunal passed in OA No.337/2013 whereby the Tribunal had allowed aforementioned OA by directing

the respondent to release the arrears of dearness allowance in pension along with interest after adjusting the normal licence fee.

6. It is not in dispute that the order passed by the Tribunal has been set aside. While setting aside the order, this Court recorded the submission of the counsel for the respondent that the petitioner was in violation of undertaking given pursuant to orders of the Supreme Court. He was forcefully evicted from the flat in question on 14.05.2007, which means that for long ten years, the respondent remained in occupation of the flat. Due to her over stay more needy persons were denied the benefit of residential accommodation. Accordingly, the licence fee was required to be claimed by the respondent in accordance with the rules. Moreover, a very compassionate view was taken by the respondent/Corporation by waiving of 50% of damage charges and could have been claimed by the respondent under the rules. Accordingly, this Court agreed with the submission of the counsel for the respondent that the respondent was in violation of the undertaking given pursuant to the order of the Supreme Court. There was no justifiable reason for him to continue to occupy the flat even after July 31, 2001. He did not vacate the quarter voluntarily, however, forcefully evicted his occupation.

7. On perusal of the directions passed by this Court, this Court has specifically directed that the respondent was entitled to claim the amount of Rs.2,78,785/- from the petitioner with interest at the rate of 9% per annum from the date it became due till 11.10.2013 by adjusting from the arrears of dearness allowance, by calculating dues

with interest at the rate of 9% per annum from the date it was due till the date of actual payment and pay the balance to the petitioner. Thus, it is clear from the directions passed by this Court, the respondent was entitled to recover the interest @ 9% on the amount of Rs.2,78,785/- and the dues amount as well.

8. In my considered opinion, the Division Bench of this Court vide order dated 11.10.2013 has not directed that the petitioner was entitled interest at the rate of 9% per annum on the arrears of dearness allowance lying with the interest.

9. In view of the above, I am not inclined to pass any order against the respondent.

10. Accordingly, the petition is disposed of with liberty to the petitioner, if he is still aggrieved, may seek clarification on this issue from the concerned Court.

SURESH KAIT, J

APRIL 09, 2015

‘sn’/jg