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

+ **W.P.(C) 306/2015**

BIR PAL SINGH

..... Petitioner

Through: **Mr. Ajay Chaudhary, Ms. Pratibha
Gupta and Ms. Santwana, Advocates**

versus

UNION OF INDIA & ANR

..... Respondent

Through: **Mr. A.K. Gautam, Advocate**

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

12.01.2015

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KAILASH GAMBHIR, J. (ORAL)

1. By this petition filed under Articles 226 & 227 of the Constitution of India, the petitioner seeks to challenge the order dated 10.10.2012 passed by the learned Central Administrative Tribunal, Principal Bench (*hereinafter referred to as "CAT"*), whereby OA No.1594/2012 preferred by the petitioner has been partly allowed, and the respondents were directed to

release the arrears of salary and allowance of the petitioner from 03.08.2009 to 14.2.2010 with interest at the rate as applicable to the GPF deposits till the date of actual payment.

2. Mr. A. K Gautam, the learned Standing counsel appears on behalf of respondent on advance notice.

3. The grievance raised by the petitioner is that he is entitled to the release of arrears of salary and allowances for the period 1.7.2007 to 14.2.2010 instead of 3.8.2009 to 14.2.2010. He was appointed as a constable in CBI on 15.2.1971, and was promoted to the post of Head Constable in the year 1980. He was further promoted to the post of ASI and SI somewhere in the year 1992. He was also promoted to the post of Inspector in CBI in 13.06.1997. On 28.08.2003 the Disciplinary Authority served a charge sheet on him alleging that the marked currency notes in his custody, being the proceeds of bribery trap had been dishonestly substituted. The Inquiry was conducted. Consequently the Disciplinary Authority imposed a punishment of "Removal from Service" on him. The said order was challenged by the petitioner before the Appellate Authority and vide order dated 20.02.2004, the appeal filed by the petitioner was partly allowed and the punishment of removal from service was reduced to "compulsory retirement".

4. The aforesaid order of compulsory retirement was also confirmed by the Reviewing Authority. The said punishment order was thereafter challenged by the petitioner before the learned CAT by way of O.A. No.2840/2005 and vide orders dated 4.4.2007, the Tribunal set aside the said order and gave a direction for reinstatement of the petitioner forthwith or latest by 30.06.2007.

5. The aforesaid order passed by the learned CAT was not implemented by the respondent and they challenged the same by preferring a W.P. (C) No. 4403/2007 before the High Court and vide order dated 3.7.2009, this Court dismissed the said writ petition filed by the respondent, imposing a cost of Rs.10,000/-. The said order was further challenged by the respondent before the Hon'ble Supreme Court by preferring a SLP (SLP (C) No.443/2010). The said SLP was also dismissed by the Hon'ble Supreme Court vide order dated 22.1.2010. In this way, the petitioner was allowed to re-join his duties on 10.02.2010, however, he retired on superannuation on 30.06.2011.

6. The petitioner had joined his services on 10.02.2010, however, arrears of his salary and allowances w.e.f. 1.7.2007 till 9.2.2010 were not released in his favour. Thus, the petitioner preferred O.A. No. 1594/2012 claiming

the arrears his salary and allowances. Vide order dated 10.10.2012, the same was partly allowed and the respondent was directed to release the arrears of salary and allowance of the petitioner from 3.8.2009 to 9.2.2010. The petitioner sought the review of this order, however, the same was dismissed by the learned Tribunal vide order dated 13.11.2014. This is how the petitioner has preferred the instant writ petition.

7. Since a short issue is involved in the present petition, therefore with the consent of parties, the same is being heard for final disposal. We have heard learned counsel for the petitioner and perused the contents of the petition as well as the orders passed by the learned CAT.

8. We find considerable merit in the pleas raised by the petitioner. Vide orders dated 4.4.2007, the learned Tribunal gave a direction to the respondent to allow the petitioner to join back his duties by 30.06.2007, however, the petitioner was not permitted to join back his duties as the respondents challenged the order passed by Learned CAT, by filling a writ before the High Court. The writ filed by the Respondents, was dismissed by this Court vide order dated 03.07.2009 and even the SLP preferred by the respondents against the order of the Division Bench of this Court was dismissed by the Supreme Court vide orders dated 22.1.2010.

9. The respondents challenged the said order after a lapse of almost two years, thereby depriving the petitioner from joining his duty for the whole of this period. Clearly and manifestly, there is no fault on the part of the petitioner in not joining back his duties. The respondents had taken considerable period to challenge the order passed by the learned CAT and therefore in our view, for such an unjustified delay on the part of the respondents, the petitioner cannot be deprived of the amount of salary and allowances, to which he should have been entitled, had he joined his duties in compliance of the directions given by the learned CAT. We are not suggesting that the respondents have no right to challenge the said order, but certainly the said order should have been challenged by the respondent within the prescribed period under the law and not at any time they so like.

10. We also find no substance in the plea raised by the counsel for the respondent that they were directed to implement the directions given by the High Court within a period of one month by the order dated 03.07.2009. The delay on the part of the respondent in approaching the High Court to challenge the order of the Tribunal dated 10.10.2012 cannot deprive the petitioner from the payment of interest for the period, he was deprived of the amount towards the arrears of salary and allowances as directed by the

Tribunal vide orders dated 10.10.2012.

11. In the light of the above discussion, the present petition filed by the petitioner is allowed and respondents are directed to release the arrears of salary and allowance of the petitioner from 3.8.2009 to 09.2.2010 with interest at the rate as applicable to the GPF deposits within a period of two months from the date of this order.

12. The petition stands disposed of.

KAILASH GAMBHIR, J

I.S.MEHTA, J

JANUARY 12, 2015

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