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

+ **W.P.(C) 1913/2015 & CM 3427/2015**

**DIRECTORATE OF EDUCATION**

..... Petitioner

Through Mr Naushad Ahmed Khan, ASC,  
GNCTD with Ms Astha Nigam,  
Advs.

versus

**SAROTAN VERMA**

..... Respondent

Through Mr M.K. Bhardwaj and Ms Shriambra  
Kashyap, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

**HON'BLE MS. JUSTICE SUNITA GUPTA**

**ORDER**

% **27.10.2016**

The Directorate of Education, Government of the NCT of Delhi in the present writ petition impugns the order dated 18.11.2014 passed by the Principal Bench of the Central Administrative Tribunal dismissing the MA Nos.3544/2014 and 3551/2014 in OA No. 1173/2014.

2. The respondent-Sarotan Verma was working as a librarian in the Directorate of Education and had filed OA No.1173/2014 raising the grievance that her retirement dues had not been released due to pendency of disciplinary proceedings though she had retired on 30.04.2013. The Tribunal, on the first hearing, disposed of the OA without any response from the government vide order dated 21.04.2014 recording that the respondent was issued charge-sheet dated 16.03.2013, the Enquiry Officer had submitted his report on 20.12.2013 and the respondent had submitted objections to the enquiry report on 06.02.2014, and the Director, Directorate of Education should pass appropriate orders within a period of 6 weeks from the date of receipt of this order.

3. The petitioner thereafter filed MA No. 1831/2014 seeking extension of time. The Tribunal vide order dated 04.07.2014 had granted four months further time.

4. Unable to conclude the proceedings, the petitioner had filed MA No.3554/2014 setting out the reasons why they require further time.

Paragraphs 3 to 5 of the said application read as under:-

*“3. That it is further submitted that in the present case disciplinary proceedings under Rule 14 of CCS(CCA) Rules, 1965 have been completed and the Director of Education has recommended for 10% cut in the pension for a period of 2 years and the matter has been sent in the prescribed proforma to Ministry of Human Resource Development, Govt. of India for passing of the Presidential Order under Rule 9 of the CCS (Pension) Rules, 1972 vide letter dated 24.09.2014 and they have been further reminded vide letter dated 20.10.2014. Copies of the letters dated 24.09.2014 and 20.10.2014 are annexed herewith as Annexure MA-3 (Colly).*

*4. That in pursuance to the letter dated 24.09.2014, referred to hereinabove, the Govt. of India, vide their letter dated 03.11.2014 (Annexure – MA-4) has acknowledged the receipt of the proposal for Presidential Order under Rule 9 of CCS (Pension) Rules, 1972 and has informed that the proposal requires approval of the President in consultation with the UPSC and the same will have to be referred to the UPSC for their advice and has also directed the applicants herein (respondents in the OA) to place these facts before this Hon’ble Tribunal.*

*5. That it is further submitted that the UPSC is a Constitutional body and not under the administrative control or supervision of the respondents in the OA. Further, the applicant has not impleaded the UPSC as a party in the aforesaid OA. As per practice, the UPSC normally takes 3 to 4 months’ time in tendering its statutory advice in such cases.”*

5. As aforesaid application had been filed after expiry of 4 months of passing of the order dated 04.07.2014, an application being MA

No.3551/2014 for condonation of delay was filed.

6. The impugned order dated 18.11.2014 dismissing both applications, inter alia, observed that the respondent had retired on 30.04.2013 and the enquiry report was submitted on 20.12.2013 and 11 months had expired since then. This, it was submitted, was sufficient time.

7. However, the Tribunal noticing the aforesaid, had failed to note the dates and facts elucidated and highlighted in paragraph 4 of the application MA No. 3554/2014. The recommended punishment had been referred to the Government of India for the Presidential order under Rule 9 of the CCS (CCA) Rules, 1972 as approval of the President in consultation with the UPSC was required. The UPSC had also been approached by the Department of Education, Government of NCT of Delhi, vide letter dated 24.09.2014. A reminder was sent on 20.10.2014.

8. The Tribunal has also held that they were *functus officio* and could not have exercised jurisdiction or the power to extend time except for correction of a typographical or clerical error or mistake. It is not possible to accept the said reasoning. The application for extension of time can always be entertained for it is procedural in nature. The time fixed, in the given facts, cannot be construed as sacrosanct and etched in stone, which cannot be further extended. Extension of time fixed by an earlier Court order does not result in review of the earlier order. Extension may be granted when the same is justified and required. Section 148 of the Civil Procedure Code, 1908 specifically provides for and recognises the discretionary power of the Court to grant extension of time. In fact, the Tribunal itself had extended time while passing the order dated 04.07.2014.

9. Learned counsel for the respondent states that he would like an early disposal of the entire issue as this writ petition has remained pending for about 2 years and the enquiry proceedings were initiated on 26.04.2013, a few days before the respondent was to retire on 30.04.2013.

10. Learned counsel for the parties have drawn our attention to the charge-sheet etc. However, we would not refer to the merits of the charges as the said aspect is to be adjudicated and a final order is still to be passed by the Disciplinary Authority though the recommendation has been moved.

11. In view of the aforesaid, we set aside the impugned order dated 18.11.2014 dismissing the MA Nos.3544/2014 and 3551/2014 and grant 3 months time to the petitioner to complete the disciplinary proceedings. The time would begin from the date when a copy of this order is served on the Director of Education. We make it clear that in case the disciplinary proceedings are not completed within 3 months, the Tribunal may, after examining the facts, direct closure of proceedings. It will be open to the petitioner to bring this order to the notice of the Government of India and the UPSC. We hope and trust that the Government of India and UPSC will keep in mind the aforesaid time frame and the resultant need for expeditious and timely disposal.

12. With the aforesaid observations, the writ petition is disposed of.

Pending CM is also disposed of. There shall be no orders as to costs.

**SANJIV KHANNA, J**

**SUNITA GUPTA, J**

**OCTOBER 27, 2016/rd**