

\$~3

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

% *Judgment dated: 29th August, 2016*

+ W.P.(C) 2824/2016

VIRESH SAXENA

..... Petitioner

Through: Mr.K.P.Gupta, Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr.Kirtiman Singh, CGSC with
Mr.Waize Ali Noor and Mr.Pranav
Aggarwal, Advocates.

Mr.Rajnish Prasad, Adv. for R-2.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 26th November, 2015 passed by the Central Administrative Tribunal (hereinafter referred to as "The Tribunal").

2. The petitioner was initially employed by DoT and subsequently by a Presidential order dated 27th July, 2012, he was permanently absorbed with MTNL w.e.f. 01.10.2000. At the time when he was working with MTNL on deputation, on 26th September, 2001, he was detained in police custody in

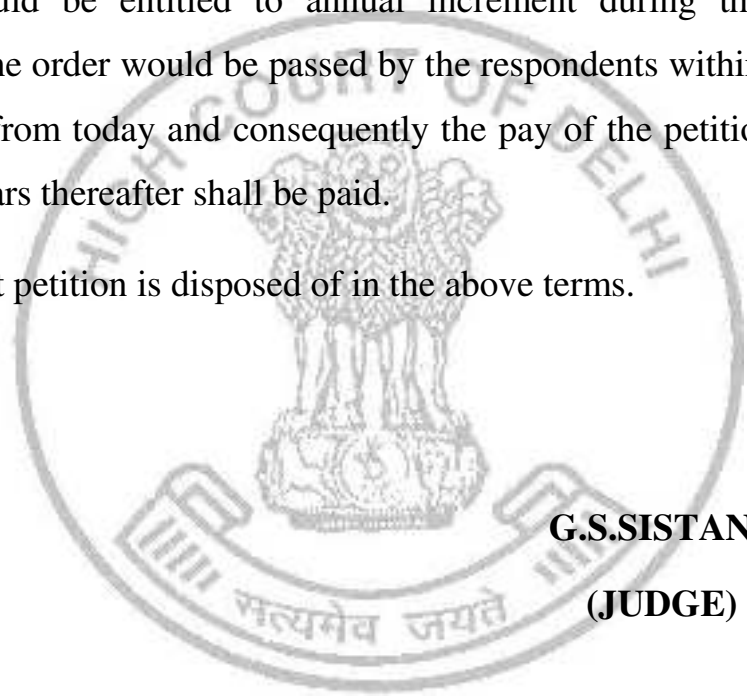
respect of a criminal offence while working as SDE. Resultantly, on 11th December, 2001, he was placed under deemed suspension w.e.f. 26th September, 2001. By an order dated 12th May, 2003, the petitioner was acquitted by the Special Judge, (Anti Corruption), Meerut. The petitioner was then served with a memorandum of charge on 6th March, 2004. Thereafter, departmental proceedings were initiated against the petitioner. The order of suspension was, however, revoked on 09th March, 2004. After an Inquiry Officer was appointed in the year 2004, a report was submitted on 21st January, 2011. The respondent No.1 herein imposed a punishment on 28th December, 2011 of reduction of pay by two stages in the time scale of pay for a period of two years with further direction that the charged officer will not earn increment of pay during the period of such reduction and on expiry of such period, the reduction will not have the effect of postponing the future increment of his pay. The petitioner made a representation against the aforesaid order of punishment on 30th July, 2012. The representation was considered and by an order dated 05th November, 2012 the representation was decided and it was found that the same was devoid of merit and ordered that the pay and allowances during the suspension period from 26th September, 2001 to 09th March, 2004 would be restricted to the subsistence allowance already paid and the period of suspension to be counted as duty for all purposes including for pension.

3. The grievance of the petitioner before the Tribunal was two-fold. Firstly, during the period of suspension he should have been granted full pay and allowances and secondly during the period of such suspension he should be granted annual increments. As far as the first prayer is concerned, the petitioner concedes that he would not press the same but would press for grant of subsistence allowance in accordance with law, if not already paid, i.e. 50% for first six months and thereafter 75%. As far as the second

complaint is concerned, learned counsel for the respondent No.2 submits on instructions issued to him from DoT on 3rd August, 2016 that there was no direction to respondent No.2 not to grant any increments during the period of suspension.

4. Resultantly, the impugned order is modified. The respondents are directed to grant suspension allowance to the petitioner @ 50% for first six months and thereafter @ 75%, if not already paid and the respondents shall remain bound by the statement made by the counsel on instructions that the petitioner would be entitled to annual increment during the period of suspension. The order would be passed by the respondents within a period of three months from today and consequently the pay of the petitioner shall be fixed and arrears thereafter shall be paid.

5. The writ petition is disposed of in the above terms.



G.S.SISTANI
(JUDGE)

I.S.MEHTA
(JUDGE)

AUGUST 29, 2016

'dc'