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

% Date of Decision: 24th May, 2016

+ W.P.(C) 4687/2016

V.N. MATHUR Petitioner

Through: Mr N.L. Balreja, Adv.

versus

UNION OF INDIA & ORS Respondents

Through: Mr Arun Bhardwaj, CGSC with Mr
Piyush Gaur & Mr Ashish Pandey, Advs. for
Resp./ UOI.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J (ORAL)

1. This writ petition by Mr V.N. Mathur impugns the order dated 11.03.2015 whereby OA No. 76/2014 filed by the petitioner has been dismissed by the Principal Bench of Central Administrative Tribunal.
2. This is virtually a fourth round of litigation, inter se, the parties. The petitioner had worked as Junior Engineer in the Central Public Works Department from 05.09.1962 to 27.05.1985, which is the date on which his technical resignation was accepted. This period includes the period when the petitioner was working with DDA on deputation with effect from 27.01.1977. On 26.05.1977 the petitioner joined Indian Tourism Development Corporation (for short ITDC) and subsequently was absorbed with them.

3. In earlier round certain disputes had arisen whether the petitioner was entitled to pension on account of voluntary retirement w.e.f. 05.09.1982 on account of communication dated 20.02.2006. However, this controversy need not be examined in view of the order of the Tribunal dated 06.06.2004 passed in OA No. 4/2003 which had directed the respondents to accept the technical resignation of the petitioner forwarded by the ITDC w.e.f 26.05.1977 as per mandate of Rule 37(1) of CCS (Pension) Rules. Similar was the finding in the order dated 29.01.2008 passed in OA No. 2653/2006. This order dated 29.01.2008 was made subject matter of challenge in the High Court in WP(C) No. 6908/2008. After some arguments, the counsel for the petitioner had withdrawn the said writ petition on 24.10.2013 with liberty to file a fresh application before the Tribunal on the contention which was urged for the first time before the High Court. This order of the High Court does not refer to the said contention in detail but it is apparent that the said contention related to computation of pension, treating the petitioner as having tendered technical resignation and having resigned from service with the respondent on 27.05.1977.

4. Counsel for the petitioner has drawn our attention to page 36 and 37 of the paper book and submits that as per the calculation made, the petitioner had rendered 14 years 8 months and 22 days of service till 27.05.1977. However, while working out the *pro rata* pension the respondents have applied multiplier of 29/160. This he submits is wrong as the multiplier should have been 29/35 as per the calculation made by the petitioner enclosed at page 111 of the paper book.

Learned counsel for the petitioner submits that this contention was specifically raised in the OA and has drawn our attention to grounds (c), sub-grounds (i) to (iii).

5. Learned counsel for the petitioner submits that this contention has not been examined by the Tribunal in the impugned order dated 11.03.2015. This contention was specifically raised in the review application, but the review application has been dismissed by the order dated 08.12.2015. Review order has also been challenged in the present writ petition.

6. Counsel for the respondents accepts that the impugned orders do not refer to this contention and decide this issue. He submits appropriate orders may be passed.

7. Keeping in view the aforesaid facts, we pass the order of remand to examine ground (c) sub-ground (i) to (iii). This aspect will be examined with reference to the computation made by the respondents enclosed at page 36 to 39 of the present paper book and the computation made by the petitioner enclosed at page 111 of the present paper book. To cut short the delay we direct the petitioner and the respondents to appear before the Tribunal on 11.07.2016. By then, the respondents will file their response before the Tribunal on the calculation made by the petitioner and justify the calculation made by them, or in case there is any error in the order passed by the respondents, they may rectify it on their own.

8. As the issue involved, is short and precise, we hope and trust the Tribunal will take up the matter expeditiously and try to dispose of the O.A. by 30.09.2016.. We have also recorded that this is a

fourth round of litigation. Counsel for the respondents assures that they will not take any adjournment. The writ petition is dispose of. No order as to costs.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 24, 2016/kk