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

+ **W.P.(C) 5971/2016**

% ***Judgment dated 15th July, 2016***

JAIPRAKASH

..... Petitioner

Through : Petitioner in person.

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Through : Mr.Santosh Kumar Tripathi, ASC for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S. MEHTA

G.S.SISTANI, J (ORAL)

CM APPL. 24595/2016

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 5971/2016

3. Challenge in this writ petition is to the order dated 29.4.2016 passed by Central Administrative Tribunal (in short '*the Tribunal*') in O.A.No.1704/2015 by which the O.A. filed by the petitioner seeking the following prayer was dismissed:

“In view of the facts and circumstances stated hereinabove, the applicant prays that this Hon’ble Tribunal may graciously be pleased to direct the respondents to pay to him the payment of his leave due as he was deprived by his rights along with interest from the salary of official concerned at fault.

Any other or further order/orders as this Hon'ble Tribunal deems fit and proper under the facts and circumstances of the case, may also be passed in favour of the applicants and against the respondents."

4. The necessary facts to be noticed for disposal of the present petition are that the petitioner was working as a PGT (Physics). Petitioner retired on 31.8.2011. It is the case of the petitioner that during the course of his employment, he was forced to work in place of other teachers. In addition, he was advising the Department. It is further averred in the petition that since as per the Government Policy he was entitled for re-employment for two years and the consequential benefits during the period of re-employment such as leaves and salary thereof, the petitioner moved an application for grant of re-employment on 5.7.2011. Since the case of the petitioner for grant of re-employment was rejected, on 8.7.2011 he applied for grant of Special Earned Leave.
5. Further as per the petitioner, as per Leave Rules he was entitled for leave or re-employment with leave and salary, but the Department has refused to grant him leave and instead issued a Show Cause Notice to him on 29.7.2011, due to which re-employment was denied to him. The petitioner thereafter filed a Criminal Case No.601/2012 against the Principal and Deputy Director of Education, wherein summons were issued against the Principal under Section 467 of the IPC, however, the learned Metropolitan Magistrate refused to take any action against regarding non-payment of amount as it was a civil dispute. Thereafter the petitioner filed O.A.No.509/2013 before the Tribunal which was also dismissed. Writ petition, being W.P.(C) 14261/2014 filed by the petitioner before the Supreme Court of India was also dismissed on 23.3.2015, however, the Apex Court directed the concerned authority

that in case the petitioner files a representation with regard to his entitlement for encashment of unutilised Earned Leave, the said authority would consider the same within four weeks.

6. The petitioner, who appears in person, submits that pursuant to the direction passed by the Apex Court he had moved an application before the respondents for encashment of leave, pursuant to which leave encashment upto 300 days i.e. maximum permissible limit was allowed to him, however, the respondents have failed to pass any order with regard to other types of leaves such as Special Earned Leave and Half-Pay Leave.
7. We have heard learned counsel for the petitioner and also perused the impugned order. The stand taken by the respondents in the counter affidavit filed before the learned Tribunal was that they had sanctioned to the petitioner encashment of earned leave to the extent of maximum permissible limit and as far as other kinds of leaves are concerned, no such encashment is permissible. The Learned Tribunal in the concluding portion of the impugned order has also observed as under:

“5. I have heard the applicant in person as well as learned proxy counsel for the respondents. In my opinion, this O.A. is totally frivolous. The applicant has himself admitted in his O.A. that earned leave encashment has been allowed to him. No other type of leave is encashable nor has the applicant shown any rule under which he sought encashment of special earned leave as well as half pay leave.

8. The position is no different today. The petitioner is unable to show any Rule under which he is seeking encashment of Special Earned Leave as

well as Half-Pay Leave. Resultantly, we are left with no option but to dismiss this petition. Accordingly, petition stands dismissed.

G.S.SISTANI, J

I.S. MEHTA, J

JULY 15, 2016

msr

