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

+ **W.P.(C) 9631/2016**

REHTU LAL SHARMA

..... Petitioner

Through

Mr.V.K. Malhotra and Mr.V.N.
Sharma, Advocates

versus

THE LT. GOVERNOR OF DELHI & ORS.

..... Respondent

Through

Mr. Devesh Singh, ASC with Mr.
Vinod Kumar Bhat, Advocate for
GNCTD

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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21.10.2016

1. Mr. Rehtu Lal Sharma has filed this writ petition impugning the order dated 4th April, 2016 passed by the Principal Bench of the Central Administrative Tribunal to the extent that he has not been granted interest on the enhanced pension.
2. Normally delay in payment of pension and retiral benefits entails a direction for payment of interest. However, the facts in the present case are rather peculiar, for the petitioner who had retired on 31st January, 1994 did not make any representation against non-payment of retiral benefits till 15th January, 1999. The reason why the petitioner had kept quiet for over five years can be gathered from the findings recorded by the Tribunal in their order dated 4th March, 2009 passed in OA 2127/2008. The service book of the petitioner was

incomplete. Apparently, the petitioner was put under suspension in the year 1977 and there were no papers or documents on record to show as to when the petitioner was asked to rejoin. The petitioner was also drawing minimum pay scale since 1973 without any increments. On 1st February, 1992, the petitioner was transferred to Mustafabad from Zafrabad, Delhi but did not join the said school. On 22nd October, 1993, the petitioner was again transferred to Jafarabad but he did not join there and had subsequently worked only for one day on 24th December, 1993. From 25th December, 1993 to 31st December, 1993 there were winter vacations. The petitioner did not thereafter report for duty in the month of January, 1994 and retired on attaining the age of superannuation on 31st January, 1994.

3. The petitioner had earlier filed the first OA in the year 2006 being OA 444/2006 which was disposed of vide order dated 21st February, 2007. In this OA, the petitioner had made prayers for payment of retiral benefits with interest. After considering the defence raised by the respondent, it was directed that the petitioner having been retired way back on 31st January, 1994, it would be in the interest of justice if the issue of retiral benefit was decided and the pension sanctioned at the earliest. The Tribunal had pertinently observed that this would require the petitioner to fill up requisite forms and furnish documents, for unless the said formalities were completed, it would be difficult for the respondents to settle the matter. The petitioner had undertaken to provide necessary cooperation and to furnish whatever information and details were required.

4. The petitioner thereafter filed OA 2127/2008 which was disposed of on 4th March, 2009. We have already referred to adverse observations made in this order. The Tribunal, on the question of payment of interest, had held that the same was not payable as the petitioner had not cooperated with the respondents in giving them full details. Accordingly, the Tribunal had issued directions that the petitioners would give full details of his postings during the last 28 years before his retirement within four weeks and if the said details were furnished, the respondents would verify the position from the respective schools within a period of three months and if it was found that the petitioner had rendered service for more than 28 years, suitable and appropriate orders would be passed. The counsel for the respondents had stated that the petitioner's pension would be released the next month, after all the formalities were completed. It is pertinent to note the observation and finding of the Tribunal that as the petitioner was responsible for delay in approaching the department and for not cooperating, he was not entitled to interest.

5. The petitioner had thereafter filed Contempt Petition No. 379/2010 alleging non-compliance. This contempt petition was disposed of vide order dated 28th September, 2010 observing that the pension and arrears of pension to the petitioner have been paid. On the aspect of computation of service period, speaking orders would be passed within two weeks. The contempt petition was closed. Direction of payment of interest was again not passed.

6. The petitioner had thereafter filed WP(C) No.858/2012 in this High Court. The order dated 2nd March, 2012 in this petition refers to

the controversy, the date on which the petitioner had joined as Senior Basic Teacher in the Government of NCT of Delhi. The Court decided the issue in favour of the petitioner holding that he had joined services in 1956, rejecting the contention of the respondents that the petitioner should be treated as having joined service only on 20th October, 1959. It was directed that the retiral benefits would be calculated by giving effect to the said date and the said benefits would be given to the petitioner within eight weeks. Payment was made in terms thereof. It is noticed that the High Court did not direct payment of interest.

7. The petitioner thereafter filed OA 3666/15 which has been disposed of vide impugned order dated 4th April, 2016.

8. The controversy which had arisen in the present matter related to pay fixation of the petitioner with effect from 1.1.1986. During the pendency of the original application, order dated 30th March, 2016 was passed by the respondents as a result of which, the basic pension payable to the petitioner on retirement on 31st January, 1994 was increased from Rs. 2,675/- to Rs.2,750/-. The impugned order while rejecting the prayer for grant of interest has referred to the past history and also the fact that the petitioner had remained on extraordinary leave from 1986 to 1991 and for which annual increments falling due in 1992 and 1993 were not paid.

9. Looking at the aforesaid factual matrix and reasons given by the Tribunal, we are not inclined to interfere with the impugned order.

10. In the present writ petition, the petitioner has also impugned the order dated 4th March, 2009 passed in OA 2127/2008. We are not

inclined to examine correctness of merits of the said order in the present writ petition in view of the delay and laches. Further we find that the petitioner had earlier approached this Court in WP(C) No. 858/2012 which was disposed of on 2nd March, 2010. Moreover, after passing of the order dated 4th March, 2009, the petitioner had asked for compliance of the same by way of contempt petition No. 379/2010 which, as noted above, was disposed of vide order dated 28th September, 2010 observing that pension and arrears of pension have been paid.

11. The petition is accordingly dismissed.

12. At this stage, learned counsel for the petitioner submits that in spite of the order of the Tribunal, the respondents have not paid arrears of pension. In case respondents have not paid arrears of pension, the same would be paid in terms of order dated 4th April, 2016 within a period of 30 days from today.

13. Copy of this order be given *dasti* under the signature of the Court Master to the counsel for the respondents.

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 21, 2016

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