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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9943/2016
DAL CHAND

..... Petitioner

Through Mr Vishwendra Verma, Adv.
versus

DIRECTOR / COMMISSIONER, EAST DELHI MUNICIPAL OF
DELHI & ORS

..... Respondent

Through Mr Punam Singh, Adv. for Mr Kumar
Rajesh Singh, Adv. for EDMC

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER
25.10.2016

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CM 39524/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application is disposed of.

W.P.(C) 9943/2016

The grievance of the petitioner is that OA No.2752/2014 which has been disposed of vide order dated 10.04.2015 did not deal with the prayer clause (ii) seeking directions from the respondents to rightly compute the pension at par with Shri Kishan Chand Gupta, a colleague of the petitioner.

The OA No.2752/2014 was disposed of by the order dated 10.04.2015, as the respondent had re-computed the pension and passed an order dated 10.11.2014. The petitioner was granted liberty and option to challenge the order dated 10.11.2014 in a separate proceedings.

The petitioner has challenged the order dated 10.11.2014 in an original application which is stated to be pending and has not been disposed of.

We perceive and believe that the petitioner in the said OA could have also challenged and raised his claim for re-computation of his pension at par with his

colleague Shri Kishan Chand Gupta.

Learned counsel for the respondents, who has appeared on advance notice, accepts that the petitioner has filed a fresh OA challenging the order dated 10.11.2014. The petitioner would be at liberty to make a prayer that his pension should be computed at par with his colleague - Shri Kishan Chand Gupta.

Learned counsel for the petitioner has also stated that the order dated 10.11.2014 is not in consonance and as per the decision dated 08.12.2009 in TA No.483/2009. This contention can also be raised by the petitioner in the OA filed by the petitioner pursuant to liberty granted in the order dated 10.04.2015.

In these circumstances, we do not think that the impugned order dated 15.09.2016 passed in MA No.2991/2015 requires interference.

We also clarify that we have only recorded the submissions and arguments of the petitioner that the petitioner can raise the issue with regard to calculation / computation of his pension at par with his colleague - Shri Kishan Chand Gupta and we have not commented on the merits of the case and the respondents has not conceded that the petitioner is entitled to pension at par with Shri Kishan Chand Gupta etc. The respondent has also not conceded or accepted that the claim, if any, made by the petitioner would be within the period of limitation.

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

SANJIV KHANNA, J

SUNITA GUPTA, J

OCTOBER 25, 2016/rd