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

+ **W.P.(C) 2058/2017**

Date of decision: 7th March, 2017

VINOD KRISHAN AGGARWAL Petitioner
Through Mr. Ravindra S. Garia, Advocate.

versus

DELHI TRANSPORT CORPORATION THROUGH CHAIRMAN Respondent
Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J.

The petitioner Vinod Krishan Aggarwal, in this writ petition, partly impugns order dated 18th October, 2016, passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short), disposing of OA No.2676/2015.

2. The petitioner, an employee of the Delhi Transport Corporation, has been chargesheeted in FIR No. 291/2009 dated 19th November, 2009, Police Station Geeta Colony (Crime) under Sections 323/341/325/307/147/148/149/34 of the Indian Penal Code, 1860. As he was arrested and had remained under detention for more than 48 hours, he was suspended. The said suspension had continued till 16th July, 2011. He

had retired from service on 31st July, 2014.

3. The prosecution is still pending and the final verdict is not known. The contention of the petitioner is that the respondents are not entitled to withhold pension or gratuity as the prosecution pursuant to the chargesheet filed under FIR No. 291/2009, Police Station-Geeta Colony (Crime) does not constitute misconduct as defined in clause 19 of the Standing Order Governing Conduct of Employees of D.T.C. It is submitted that there is no allegation that any pecuniary or financial loss has been caused to the respondent Corporation.

4. We are not in agreement with the contentions raised by the petitioner. Central Civil Services (Pension) Rules, 1972, as per the petitioner, are applicable. Sub-rule (4) to Rule 9 states that in case a Government servant, who has retired on attaining the age of superannuation or otherwise has departmental proceedings or judicial proceedings pending against him, shall be paid provisional pension. In case of departmental proceedings, the requirements of sub-rule (2) have to be satisfied. The expression “judicial proceedings” for the purpose of criminal proceedings means the date on which the complaint or the report of the police officer, of which cognizance has been taken by the Magistrate, is made. The said Rule has to be read

harmoniously with Rule 69 relating to payment of provisional pension where judicial proceedings are pending.

5. In the light of the aforesaid statutory position, we do not think that the petitioner can be allowed to make any claim other than the claim for provisional pension. We clarify that we have not expressed any opinion on any other matter or issue decided vide order dated 18th October, 2016, which the Delhi Transport Corporation, if deemed appropriate, may challenge. Any such challenge raised would be examined as per law.

6. With the aforesaid observations, the writ petition is dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 07, 2017
NA