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

\+ W.P.(C) 1926/2017

GNCT OF DELHI ..... Petitioner
Through Ms. Harvinder Oberoi, Advocate for Mr. Devesh Singh, ASC, GNCTD.

versus

EX-SI HAR SAROOP ..... Respondent
Through Nemo.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE CHANDER SHEKHAR

<u>O R D E R</u>
% **03.03.2017**

<u>CM Nos. 8540-8541/2017</u>

Exemption applications are allowed, subject to all just exceptions.

<u>W.P.(C) No. 1926/2017</u>

Government of NCT of Delhi in this writ petition impugns the order dated 8th August, 2016 whereby Original Application No. 2924/2014 filed by Ex- SI Har Saroop has been allowed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) with the following directions:-

> "5. In the light of the above, I am of the view that the OA deserves to succeed. The respondents are directed to calculate and pay to the applicant within four weeks from the date of receipt of a copy of this order, interest at the prescribed rate on delayed payment of gratuity [vide rule

> 68, CCS (Pension) Rules 1972] and at the GPF rate on other retiral dues for the period from 21.12.2007 to the date(s) of actual payment(s)."

2. The respondent had earlier challenged penalty of dismissal from service awarded by the Revisional Authority, vide OA No. 235/1996. This OA was dismissed. Thereupon, the respondent filed Writ Petition (C) No. 7579/2000, which was allowed vide decision dated 21st August, 2007 passed by a Division Bench of this Court holding that Rule 25A of the Delhi Police (Punishment and Appeal) Rules, 1980 was unconstitutional. Rule 25A under which the Revisional Authority had exercised the power was struck down. The Division Bench of the High Court aware and conscious that the respondent had retired by then, passed the following directions:-

> "10. Since the petitioner has already retired from service, what flows from the aforesaid order is to treat the petitioner in continuous service till the date of his retirement and give him the consequential benefits of pay and allowance and also fix his pension accordingly. The arrears on this account shall be paid to the petitioner within four months from today.
>
> 11. With these directions, this writ petition is disposed of."

3. As per the aforesaid directions in the judgment dated 21st August, 2007, the respondent was to be treated as in continuous service till the date of retirement with consequential benefits of pay and allowances and the pension was to be fixed. Arrears upon computation were to be paid within four months.

4. Counsel for the petitioner submits that Rule 68 of the CCS (Pension) Rules, 1972 postulates payment of interest only in cases of administrative

delay. We would not agree that Rule 68 would bar or prohibit payment of interest. In this case, there was specific direction to the petitioner authorities to make payment of arrears within four weeks. There was non-compliance. In these circumstances, direction to pay interest from 21st December, 2007 i.e. four months after passing of the order dated 21st August, 2007 is justified.

5. Learned counsel for the petitioner states that the respondents had challenged the order dated 21st August, 2007 before the Supreme Court in Special Leave to Appeal (Civil) No. 5132/2008. The said appeal was dismissed vide order dated 12th August, 2013. The challenge made by the petitioners to the order dated 21st August, 2007 was at their own peril. In case they wanted extension of time for payment, the said prayer should have been made before the Supreme Court. No extension of time was granted.

6. Lastly, counsel for the petitioner has submitted that certain payments were made within the time stipulated. In some cases, interest was also paid. The impugned order does not state that "double" interest should be paid or interest has been paid even when payment was made within time or is payable post the payment. The interest paid, it is obvious, would be duly taken into consideration.

7. With the aforesaid observations, we dismiss the present writ petition.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 03, 2017
VKR/NA