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

+ W.P.(C) 3649/2017

ISHWAR SINGH

..... Petitioner

Through: Mr. Kiran Babu and Mr. S.N.
Gautam, Adv.

versus

MAHANAGAR TELEPHONE NIGAM LTD AND ANR

..... Respondent

Through: Mr. Ajay Digpaul, CGSC with Ms.
Mohita for R-2/UOI

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

01.05.2017

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The petitioner has preferred the present writ petition to assai the order dated 06.12.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 2234/2014. The tribunal has dismissed the aforesaid OA preferred by the petitioner. In the said OA, the petitioner had sought a direction to the respondent to release the subsistence allowance along with interest for the period March 2004 to 14.07.2008.

The background in which the aforesaid OA came to be filed is that the petitioner joined the Department of Post and Telegraph in the year 1981 as a Wireman. The petitioner became a part of Telecommunication Department

in the year 1992. In 1994, he was transferred to MTNL on deputation basis. On 12.08.1996, the petitioner was arrested in a criminal case registered vide case FIR No 279/1996 u/s 148/302/149 IPC registered at PS Sadar, Sonapat, Haryana. Consequently, he was placed under deemed suspension. He was paid subsistence allowance from the date of his suspension i.e. 12.08.1996 to February 2004. Pertinently, during this period the petitioner furnished his non employment certificate. He was finally convicted in the aforesaid case by the District & Sessions Judge, Sonapat on 06.05.1998. The petitioner's appeal before the Punjab and Haryana High Court against his conviction was dismissed on 15.02.2008. During the pendency of the said appeal, the petitioner was released on bail on 20.08.2001. The Special Leave Petition preferred before the Supreme Court too was dismissed.

Consequently, the petitioner was dismissed from the service on 14.07.2008. The petitioner claimed that he had not been paid the subsistence allowance for the period March 2004 to 14.07.2008. The tribunal has taken note of the aforesaid facts and the fact that the petitioner was not in custody during the period March 2004 to 14.07.2008.

The tribunal has dismissed the OA on two counts, namely, the non entitlement of the petitioner to receive subsistence allowance on account of non submission by him of the non employment certificate for the relevant period, and also on account of limitation. As noticed above, the claim pertained to the period March 2004 to 14.07.2008, whereas the OA was preferred only in the year 2014.

The submission of learned counsel for the petitioner is that the petitioner was not required to submit the non employment certificate even on earlier occasion. He submits that the representation to the Government

has still not been decided.

Having heard learned counsel for the petitioner and perused the record, we find no merit in this petition. The petitioner does not deny that to be entitled to release of the subsistence allowance, it is essential for him to provide a non employment certificate. Secondly, the pendency of the petitioner's representation is of no avail since the respondents appeared in the OA and contested the same denying the claim of the petitioner, firstly, on account of non submission of the non employment certificate by him and, secondly, on the ground of limitation. In the face of the dismissal of the OA, it is obvious that the representation of the petitioner also stands disposed of.

Having perused the impugned order, we find absolutely no reason to interfere with the same, since the order appears to be well reasoned and justified in the facts of the case. Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 01, 2017

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