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

+ **W.P.(C) 7749/2017**

TASNEEM AHMED

..... Petitioner

Through: Mr. Ranjit Sharma, Advocate

versus

THE GOVT. OF NCT, DELHI & ORS

..... Respondent

Through: Mr. Gautam Narayan, ASC with Mr.
R.A. Iyer and Ms. Mahamaya
Chatterjee, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

ORDER
01.09.2017

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C.M. No. 31974/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 7749/2017

1. The petitioner has preferred the present petition to impugn the order dated 16.11.2016 passed in O.A. No. 2098/2016 by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal) preferred by the petitioner. The tribunal has allowed the said O.A. by holding in favour of the petitioner that the termination of his services was

illegal. The tribunal also directed reinstatement of the petitioner with 50% of the salary that he was entitled to during the period of his termination.

2. The petitioner is aggrieved by the impugned order only to the extent that the tribunal granted 50% of the salary for the terminated period and not the entire salary for the said period.

3. The facts in brief are that the petitioner was re-employed by the government as a teacher even after attaining the age of superannuation. The order of employment stated that the petitioner shall continue in employment till he attains the age of 62 years or till the clearance from Government for extending retirement age is received, whichever is earlier on the terms and conditions as contained in CCS (Fixation of Pay of Re-employed Pensioners) Orders, 1986 amended from time to time. The services of the petitioner were terminated only on the basis of some complaint made by some of the students of the school during the visit of the Education Minister. The tribunal held in favour of the petitioner that termination of the service of the petitioner could not take place in the aforesaid manner and, consequently, while allowing the O.A., inter alia, directed as follows:

“We, therefore, quash order dated 20.05.2016 with the direction to the respondents to reinstate the applicants immediately and not later than 7 days from passing of this order. However, for the period from the date from which their services were terminated after reemployment and till the date they join the service, in the circumstance of the case, we further direct that 50% of the salary should be paid to the applicants. There shall be no order as to costs”.

4. The said order was assailed by the respondent before this Court. The writ petition was, however, withdrawn with liberty to file a review petition. Since the petitioner was not reinstated in terms of the directions issued by the tribunal in the impugned order, the petitioner and another similarly placed teacher preferred C.P. No.607/2016 in O.A. No.2098/2016. In the said contempt proceedings, the petitioner, *inter alia*, prayed that the petitioner be released full salary. The respondent explained that the order of the tribunal had not been implemented since the respondent had first approached the High Court and after the passing of the order dated 21.02.2017 by the High Court permitting withdrawal of the writ petition with liberty to file a review petition, the process of filing of review was underway. The tribunal closed the contempt proceedings on 29.03.2017.

5. From the aforesaid, it would be seen that the first attempt made by the petitioner to obtain 100% salary for the past period after the date of termination failed. The petitioner has now preferred the present petition after a lapse of nearly 9 months and even after attaining the age of 62 years during which the reemployment could have continued.

6. The submission of counsel for the petitioner is that since there was no fault found by the tribunal on the part of the petitioner, the petitioner would be entitled to 100% salary for the period after termination till the petitioner attained the age of 62 years.

7. We do not find any merit in the said submission of the petitioner. The Courts and Tribunals mould the relief keeping in view all the facts and circumstances of the case. The petitioner had actually superannuated from

his service. He was conditionally reemployed. There was no vested right in the petitioner to continue in service after the age of superannuation. The petitioner, after his illegal termination, did not have to render any service to the respondent. Neither his time nor his expertise/ skill was availed of, nor he had to undergo the trouble of attending his duties on a day to day basis.

8. In these circumstances, the award of 50% of the salary for the period after termination, in our view, sufficiently met the ends of justice. There is no hard and fast rule that in every case of reinstatement, the employee would be entitled to 100% back wages.

9. For the aforesaid reasons, we find no merit in this petition. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 01, 2017

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