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

\+ W.P.(C) 7918/2015

SAHYOGI WELFARE ASSOCIATION OF RETIRED EMPLOYEES OF NATIONAL COOPERATIVE UOI & ORS.

..... Petitioner

Through: Ms. Prabhsahay Kaur, Advocate

Versus

NATIONAL COOPERATIVE UNION OF INDIA & ANR

..... Respondent

Through: Ms. Santosh Kohli, CGSr. C with Dr. A.K. Srinath, Dy. Director NCUI for Respondents

**CORAM:**
**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**O R D E R**

**%** **14.09.2017**

The present petition has been filed by the petitioners with the following prayers:

> *"In view of the aforesaid facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:*
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> *I. Issue a Writ of Mandamus or any other appropriate writ/order/direction directing the Respondents to pay the arrears of additional DA to the members of the Petitioner No.1 society at the rate prescribed by the Respondent No.2., viz. @ 7% w.e.f. 1$^{st}$ July 2012 to 1$^{st}$ March 2014, 8% w.e.f. 1$^{st}$ January 2013 to 1$^{st}$ May 2014, 10% w.e.f. 1$^{st}$ July 2013 to 1$^{st}$ May 2014.*
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> *II. Issue a Writ of Mandamus or any other*

*appropriate writ/order/direction directing the Respondents to pay the enhanced DA to the members of the Petitioner No.1 society at the rate prescribed at present, i.e. @ 113%; along with its arrears, viz., @ 10% enhancement w.e.f. 1st January 2014, @ 7% enhancement w.e.f. 1st July 2014 and 6% enhancement w.e.f. 1st January 2015;*

III. *Issue a Writ of Mandamus or any other appropriate writ/order/direction directing the Respondents to pay interest @ 9% on the amounts claimed in Prayer (I) and (II) from the date they became payable till the date of payment;*

IV. *Issue a Writ of Mandamus or any other appropriate writ/order/direction directing the Respondents to pay the Dearness Allowance (as enhanced from time to time by Respondent No.2) to the retired employees, simultaneously with the regular employees;*

V. *Pass an order awarding costs in favour of the Petitioners and against the Respondents;*

VI. *Pass such other orders, which this Hon'ble Court may deem fit and proper under the circumstances of the case."*

It is the case of the petitioners / association that the members of the association are the retired employees of the respondent No.1, who are senior citizens between 70-80 years of age. Their grievance as contended by the learned counsel is that the respondent No.1 has failed to pay the enhanced DA to them in terms of the notification(s) issued by the Government of India, from time to time.

Learned counsel for the petitioner would submit that the enhanced DA and arrears thereof have not been paid w.e.f. 1st July 2012. According to her between 1st July 2012 to 1st May 2014 DA was increased @ 7% twice a year, i.e., on 1st January and 1st July of each year. She also states that the DA was also enhanced at the rate of 10% to 4% between the period 1st January 2014 to 1st January 2017. She also states that the plea of the respondent No.1 that the arrears of DA could not be paid because of the financial crunch is untenable, inasmuch as, the respondent No.1 has sufficient corpus to pay the arrears to the members of the petitioner association. She states, the only reason for denying the enhanced DA to the members of the petitioner association is that the members have since retired and in their case the same can be delayed.

She has also drawn my attention to the order passed in the Writ Petition (C) No.5501/2014 filed by a similar association wherein this Court has noted that there is no financial crunch in that organisation, i.e., respondent therein. According to her, the respondent therein, National Council for Cooperative Training is one of the departments under the respondent No.1 herein. On the last date of hearing this Court had directed the learned counsel for the respondent No.1 to place on record the financial status of the respondent No.1 in terms of the balance-sheet for the financial year of 2015-16. Learned counsel for the respondent No.1 has filed a booklet depicting the audited annual accounts of the year 2015-16. On page 7 of the said booklet it is noted as on 31st March 2016, the respondent No.1 had a corpus fund of Rs.53,16,80,928/- as against the Rs.40,25,95,845/- in the year 2014-15. Learned counsel for the respondent No.1 concedes to the entitlement of the members of the petitioner association to the enhanced DA, but she states, in view of the financial position, this Court may direct payment of the arrears to the members of petitioner association in instalments.

Having heard learned counsel for the parties, insofar as the plea of the learned counsel for the respondent No.1 that the arrears be directed to be paid in instalments is concerned the same is not appealing more so when the corpus available with the respondent No.1 as noted above is sufficient to discharge the limited liability of arrears to be paid to the members of the petitioner Association, i.e., Rs. 1 Crore (approx.). Further the enhanced DA is payable to compensate the rise in price index. Delay in payment on that count would frustrate the very purpose of enhancing the DA.

Accordingly, the respondent shall release the DA arrears w.e.f 1st July

2012 till 1st January 2017 of enhanced DA after adjusting the amounts, if any, already paid to the members of the petitioner association within a period of three months from today with interest calculated @ 9% per annum from the date (s) due.

I also note the learned counsel for the petitioner is justified in relying upon the orders passed by this Court in Writ Petition (C) 5501/2014 in the case of Sahkarmi Welfare, Association of Retired Employees of National Council for Cooperative Training V. Union of India vide order dated 15th December, 2014 and also the order of the Division Bench in LPA 214/2015 (between the same parties) dated 29th April, 2015. It was also held by the Division Bench of this Court in the order of 29th April, 2015, that the Chief Executive Officer of respondent No.1, therein shall be personally responsible for complying with the mandamus issued by this Court. The mandamus was issued to obviate the necessity for the petitioners to repeatedly file writ petitions on the subject of release of DA. In other words as and when DA is increased, the same shall be paid timely. Similar direction is given to the Chief Executive Officer of Respondent no.1 herein, who shall ensure the release of DA timely.

The writ petition is allowed with costs quantified at Rs.25,000/-

(Rupees twenty five thousand only) to be paid to the petitioner association by respondent no.1.

**V. KAMESWAR RAO, J**

**SEPTEMBER 14, 2017**/*akv*