

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

*Date of Order: April 03, 2018*

+ **W.P.(C) 133/2016**

NILOFER RIZVI

..... Petitioner

Through: Mr. S.K. Rungta, Senior Advocate  
with Mr. Shivankar Shukla and Mr. Prashant  
Singh, Advocates

versus

JAMIA MILLIA ISLAMIA AND ORS.

....Respondents

Through: Mr. Apurb Lal and Ms.Meenu  
Pandey, Advocates for respondents No.1 & 2

**CORAM:**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**ORDER**  
**(ORAL)**

1. Non-availability of funds is the reason put forth in the impugned Communication of 11<sup>th</sup> December, 2015 (*Annexure-A*) by respondent-University, when petitioner vide her applications of 28<sup>th</sup> September and 4<sup>th</sup> November, 2015 had sought gratuity and leave encashment payable to her. It is the case of petitioner that she had joined as Programme Assistant in Population Education Project, SRC, Jamia Millia Islamia w.e.f. 11<sup>th</sup> January, 1988 on ad-hoc basis. As per petitioner's appointment letter of 14<sup>th</sup> May, 1990 (*Annexure-C*), petitioner had applied on 14<sup>th</sup> December, 1989 for the post of Programme Associate (Population Education), she was appointed on the said post on temporary basis and as per petitioner's appointment letter (*Annexure-C*), the place of her duty was State Resource Centre, Jamia Millia Islamia. Vide Office Order of 1<sup>st</sup> June,

1998, petitioner was promoted as Associate Programme Co-ordinator and vide Office Order of 30<sup>th</sup> April, 2007, she was promoted as Programme Co-ordinator. It is matter of record that petitioner has retired as Programme Co-ordinator on 30<sup>th</sup> September, 2015 and prior thereto, vide letter of 28<sup>th</sup> September, 2015 (*Annexure-D*), petitioner had sought payment of gratuity and leave encashment while highlighting that gratuity and leave encashment has been already paid to her colleagues i.e. Mr. Praveen Arora in November, 1991, Mrs. Nishant Farooq in September, 2004, Mr. S. Rahman in July, 2005, Mr. Z.H. Qureshi in August, 2013, Mr. Shahab Siddiqui in October, 2013 and Mr.A.A. Suharwardi in December, 2014.

2. The stand of respondent-University in its Communication of 1<sup>st</sup> June, 1985 (*Annexure-F*) to the Ministry of Education and Culture is that the Director of State Resource Centre has full working authority over the operation of the budget, appointment of staff and carrying out the functions of the State Resource Centre and the control of the Central Jamia Millia is minimal. In the counter affidavit filed by respondent-University, the stand taken is that due to non-receipt of grant from respondent-Union of India, there is paucity of funds. In paragraph No.12 of the writ petition, it has been highlighted that in the years 2013 to 2015, gratuity and leave encashment has been paid to Mr. Z.H. Qureshi in August, 2013, Mr. Shahab Siddiqui in October, 2013 and Mr.A.A. Suharwardi in December, 2014. It is also averred in this paragraph that Mr. Z.H. Qureshi has been granted benefit of MACP in June, 2015. In the corresponding paragraph No.12 of the counter affidavit of respondent-University, it is simply stated that the averments made in this paragraph

are not fully correct and that the liability of State Resource Centre cannot be borne by respondent-University.

3. At the final hearing of this petition, learned senior counsel for petitioner has produced the *Guidelines for Management, Planning and Operation of the State Resource Centres* issued by National Literacy Mission, Ministry of Human Resource Development, which envisages creation of a Development Fund of the Resource Centres generated from the fees collected from the trainees, donations, consultancy fees for the programmes conducted by Resource Centres on behalf of other departments/agencies and any income other than grants received from the Government of India. Guideline No.8 of the aforesaid Guidelines clearly provides that the amount of the Development Fund shall be spent broadly on the following items: -

- *Programme and activities of RC.*
- *Purchase of land, construction of office-building for RC, repair and renovation of RC building.*
- *Not more than 25% of the fund generated in a year may be utilized towards the RC Staff Welfare activities, that may include the retirement benefits etc.*

*The proposals for incurring expenditure from the development fund shall be placed in the meeting of the governing Body in which the presence of the Government of India representative is necessary.”*

4. It is also matter of record that respondent-*Union of India* has chosen not to file the counter affidavit despite this Court's directive of 10<sup>th</sup> November, 2016. There is no appearance on behalf of respondent-*Union of India* at the final hearing of this petition.

5. After considering the submissions advanced on behalf of both the sides and on perusal of the material on record, this Court finds that petitioner's entitlement to gratuity and leave encashment is not in dispute. Denial of payment of gratuity and leave encashment to petitioner is on account of paucity of funds with State Resource Centre, which is funded by Government of India and the control of respondent-University in the functioning and affairs of the State Resource Centre in question is minimal.

6. In light of afore-noted peculiarity of this case and with a view to ensure speedy redressal of petitioner's grievance, it is deemed appropriate to dispose of this petition with a mandamus to the Director of State Resource Centre in question to effectively consider the release of amount of gratuity and leave encashment payable to petitioner, out of the Development Fund in terms of the *Guidelines for Management, Planning and Operation of the State Resource Centres* issued by National Literacy Mission, Ministry of Human Resource Development, within a period of six weeks from the date of receipt of this order and petitioner be intimated about its outcome within two weeks thereafter, so that petitioner may avail of the remedies as available in law, if need be.

7. In light of decision of a Division Bench of this Court in W.P. (C) 1186/2012 titled *Government of NCT of Delhi v. SK Srivastava*, rendered on 29<sup>th</sup> February, 2012, entitlement of petitioner to the interest on the amount of gratuity, leave encashment, etc., be also dealt with by the Director of State Resource Centre in question while passing a reasoned order.

8. The Director of State Resource Centre in question be apprised of this order forthwith to ensure its compliance.

9. With aforesaid directions, this petition is disposed of.

Copy of this order be given *dasti* to learned counsel for the parties.

**(SUNIL GAUR)**  
**JUDGE**

**APRIL 03, 2018**

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