

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: May 28, 2018

+ **W.P.(C) 584/2017**

PREM THAKRAN Petitioner

Through: Mr. Yudhvir Singh Chauhan and
Ms. Jatinder Kaur, Advocates

versus

GOVT OF NCT OF DELHI AND ORS Respondents

Through: Mr. Dhananjaya Mishra, Advocate
for respondents No.1 & 2
Mr. Anurag Lakhotia, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. By way of this writ petition, arrears of 6th Central Pay Commission w.e.f. 1st January, 2006 alongwith officiating allowances @ ₹500/- per month from 1st April, 2002 to 31st March, 2015 and @ ₹2,500/- per month from 1st April, 2015 till 31st May, 2016, i.e. till the date of retirement, is sought by petitioner.

2. In the counter affidavit filed by respondent-School, it is maintained that the recommendations of 6th Central Pay Commission have been implemented w.e.f. the year 2012. It is clarified by learned counsel for respondent-School that petitioner in the writ petition has sought arrears of 6th Central Pay Commission upto 31st December, 2012, but petitioner is entitled to claim the arrears for a period of three years prior to filing of the writ petition. To submit so, reliance is placed upon decision in *Preeti Sharma and Ors. (Ms.) v. Ganga International School and Ors.*, 2017 II AD (Delhi) 395.

3. Petitioner's counsel points out that as per affidavit of 16th November, 2009 of respondent-School, it is undertaken that the salary, allowance etc. are to be given as per Section 10 of *the Delhi School Education Act and Rules, 1973*. Attention of this Court is drawn by petitioner's counsel to Communication of 5th February, 2011 (*Annexure P-4*) of respondent-School to point out that respondent-School had undertaken to pay the arrears of 6th Central Pay Commission to the regular staff w.e.f. 1st January, 2006 and so, respondent-School is bound by it.

4. Learned counsel for respondent-School submits that the acknowledgement to pay the arrears with effect from 1st January, 2006 was made in February, 2011 and so, the period of limitation gets extended till February, 2014. The instant writ petition has been filed in the year 2017 and the arrears for Sixth Pay Commission for the period prior to 1st January, 2013 would be barred by *delay and laches*. Regarding the Officiating Allowance, the stand taken by learned counsel for the respondent-School is that it is not payable.

5. Upon hearing and on perusal of material on record and the decision cited, I find that the application of *doctrine of delay and laches* in a writ petition is to be considered in a liberal manner. That is to say, if there is any ground for extension of limitation, it has to be considered liberally.

6. In the instant case, respondent-School in its communication of 5th February, 2011 (*Annexure P-4*) had undertaken to pay the arrears of Sixth Pay Commission to the regular staff with effect from 1st January, 2006. On the strength of that undertaking, petitioner ought to have approached

the Court within three years i.e. in the year 2014. The lack of diligence is apparent from the fact that petitioner had not even made a Representation in the year 2014 to seek the arrears of Sixth Pay Commission with effect from 1st January, 2006 and only in the year 2017, writ petition has been filed. Therefore, in view of the decision in *Preeti Sharma* (Supra), the benefit of Sixth Pay Commission to petitioner prior to 2013 cannot be extended.

7. Regarding the Officiating Allowance, I find that in view of the Communication of 14th June, 2016 (Annexure P-15) of the respondent-School, petitioner's case for entitlement to Officiating Allowance needs to be considered, if she had worked as Teacher (In-Charge). To claim the Officiating Allowance @ ₹2,500/- per month with effect from 1st April, 2015, petitioner is permitted to make a Representation to the respondent-School within a week. Upon receipt of such a Representation, the respondent-School shall pay the said allowance or give a speaking response to the said Representation within a period of six weeks and the fate of such Representation be made known to petitioner within a week thereafter, so that petitioner may avail of the remedies as available in law, if need be.

8. With the aforesaid directions, this petition is disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MAY 28, 2018
s/p