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

+ W.P.(C) 4359/2014

MAHINDER PAL SINGH

..... Petitioner

Through: None

versus

UOI AND ORS

..... Respondent

Through: Mr. J.K. Singh, Standing Counsel
with Mrs. Madhulika Agarwal and
Mr. Harsh Pandit, Advocates

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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26.10.2018

Despite pass over, none has appeared for the petitioner. In these circumstances, we have perused the record and proceed to dispose of the writ petition.

The petitioner was initially transferred from TKD Delhi to Mumbai. He assailed the said transfer successfully. Subsequently, he was transferred from TKD to Shyamgarh.

The tribunal has found that between the period 30.04.1996 to 24.07.1998, the petitioner did not render any service. Consequently, by applying the principle of “no work no pay”, he was not paid salary for that period and that period was also treated as period not spent on duty.

Mr. Singh submits that so far as the length of service of the petitioner is concerned, the period between 30.04.1996 to 24.07.1998 has been treated as not spent on duty. However, considering his service prior to and after the

said period, he has been paid his pensionary benefits since he has superannuated.

The respondents were required to file an additional affidavit vide order dated 04.12.2017, which stands filed. In the said affidavit, the stand taken by the respondent in paras 4 and 5 read as follows:

“4. That due to the absence period from 30.04.1996 to 24.07.1998 no promotion prospect has been effected and petitioner has been promoted as Tech-II, Tech-I and Sr. Tech (GP 4200/-) from 14.12.2001, 06.04.2005 and 01.09.2016 respectively. Copy of promotion order for the post of Sr. Tech is annexed as Annexure R-1. As such there is no loss is seniority. Benefit of service rendered prior to 30.04.1998 except absent period will count as service for granting the pension.

5. That there is no provision to treat the absent period as dies non. Absence period from 30.04.1996 to 24.07.1998 will not be counted for qualifying service but service rendered by the petitioner prior to 30.04.1996 will be counted for qualifying service”.

In our view, there is no legal basis for the petitioner to claim that the period between 30.04.1996 to 24.07.1998 should be treated as period spent on duty. Though the respondent does not have in its rules the concept of *dies non*, in effect, the said period has been treated as *dies non*.

For the aforesaid reasons, the petition is dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

OCTOBER 26, 2018 sr