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

% *Date of Judgment: 9th May, 2018*

\+ W.P.(C) 4966/2018

KALU PRASAD ..... Petitioner

Through Mr. Ravindra S. Garia, Advocate

versus

DELHI TRANSPORT CORPORATION ..... Respondent

Through Ms.Palak Rohmetra and Mr. Nitesh Kumar Singh, Advocates for Mrs. Avnish Ahlawat, Standing Counsel for the DTC/respondent.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. ***(ORAL)***

CM.APPL 19172/2018(Exemption)

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

3. This matter has been listed before this Court as DB-VI has not assembled today.

4. This is a petition under Article 226 of the Constitution of India filed by the petitioner. The counsel for the petitioner prays for a limited direction to the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') for expeditious disposal of the OA. 2427/2017 filed by the petitioner herein which is pending before the Tribunal and has been adjourned from time to time and on the last two occasions on the ground that a writ petition is pending in the High Court and the decision of which would substantially impact the controversy involved in the OA.

5. Notice to show cause as to why the petition be not admitted. Counsel for the respondent enters appearance on an advance copy and accepts notice.

6. The brief facts to be noticed for the disposal of this case are that the petitioner joined the services of the respondent Corporation as a Conductor on 04.10.2982. Pursuant to an inquiry, the petitioner was removed from the service of the respondent in the year 1993. Pursuant to the order of dismissal, the respondent filed an application for approval of dismissal before the Industrial Tribunal, which was rejected by the Labour Court by an order dated 13.10.1997. By an Award dated 29.01.2005, the Labour Court directed reinstatement of the petitioner in the service of the respondent with full back wages. It is not in dispute that the petitioner was reinstated in the service of the respondent in compliance of the Award of the Labour Court on

13.07.2005. The Award was set aside by an order dated 06.08.2009 by this Court and the matter was remanded back to the Industrial Tribunal. The Tribunal again dismissed the approval application by an order dated 06.11.2009, which led to the filing of a writ petition by the respondent herein being W.P.(C).3759/2010 before this Court, which is still pending. Meanwhile, on 31.10.2014, the petitioner was promoted from the post of the Conductor to the post of Assistant Traffic Inspector. The petitioner retired on 31.05.2017. The petitioner was informed that no retiral benefits except the employee's own share of Provident Fund would be payable to the employee and other benefits, including Gratuity and DTC pension would be paid after the decision in the writ petition being W.P.(C)3759/2010. A Representation made by the petitioner on 07.03.2018 for release of his retiral benefits was rejected on 15.03.2017. The other representations made were also rejected by the respondent, which led to the filing of OA.2427/2017 on 13.07.2017.

7. The counsel for the petitioner has drawn the attention of the Court to the fact that the matter could not be taken up either due to the paucity of time and on the last two dates, on the ground of pendency of the writ petition filed by the respondent in the High Court. We are informed by the counsel for the petitioner that the OA is listed before the Central Administrative Tribunal on 17.05.2018. Counsel submits that the issue involved in the writ petition pending before this Court only pertains to the back wages. He submits that the writ petition would have no impact on the decision of the OA for the reason that not only the petitioner was reinstated on 13.07.2005, but he was

promoted to the post of Assistant Traffic Inspector on 31.10.2014 and the petitioner continued to perform his duties between the period from 2014 upto the period of his superannuation i.e. 31.05.2017. Counsel further submits that the petitioner is the only earning member, he is staying along with his wife. It is further submitted that the petitioner will not claim pension, but would only seek provisional pension at this stage.

8. Learned counsel for the respondent has, however, opposed this petition and submits that the outcome of the writ petition pending in this Court might have an impact on the present OA pending before the Tribunal. It is, however, not disputed that the petitioner was reinstated in the service of the respondent Corporation on 13.07.2005 and, in fact, promoted to the post of Assistant Traffic Inspector on 31.10.2014 where he continued till his superannuation i.e. 31.05.2017.

9. Keeping the aforesaid facts into consideration, we are of the view that in case after hearing the parties and examining the pleadings of W.P.(C).3759/2010 the Tribunal is of the view that the OA cannot be heard, in that case the Tribunal shall hear the application seeking interim relief, which shall be restricted to provisional pension on the date fixed as we are informed that pleadings are complete. No adjournment will be granted to either of the parties. This order is being passed keeping in view the fact that the petitioner is facing acute financial hardship as the petitioner has retired and has to look after himself and his wife. We are also informed that children of the petitioner are married and are staying separately and not supporting the petitioner.

10. With these directions, the writ petition stands disposed of.

11. All pending applications stand disposed of.

12. Dasti under signatures of the Court Master, as prayed by the parties.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MAY 09, 2018
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HIGH COURT OF DELHI
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