

\$~9

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

+ **W.P.(C) 6816/2011**

SHRI GOPAL DASS

..... Petitioner

Through: Mr Arvind K. Sharma, Advocate.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Mr Dev P. Bhardwaj, CGSC for UOI
with Ms Anubha Bhardwaj,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

19.01.2018

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to respondents for rehabilitating the petitioner and providing compensation for the mental and physical loss, pain, torture suffered by the petitioner and his family during the period of 28 years when the petitioner was incarcerated in Pakistan.

2. The petitioner claims that he was recruited by Research and Analysis Wing (RAW) in 1978 and was trained by various officers of the said organisation. He claims that he was arrested in 1984 by the Government of Pakistan and was convicted under Section 59/3 of the Official Secret Act, 1923 of the State of Pakistan. He was released from Prison on 07.04.2011. This Court had examined the aforesaid contention and passed an order dated 01.04.2013 concluding that there was no material whatsoever to establish that the petitioner had been recruited by RAW.

3. The Court noted that the petitioner's case was that he was not engaged in any clandestine activity during the relevant period; that he has mistakenly crossed over to Pakistan; and that he was wrongly convicted under the Official Secret Act, 1923 by the Pakistan Security Forces.

4. Considering the above, the Court held that no relief whatsoever would be granted to the petitioner. However, the Court was of the *prima facie* view that the Ministry of Home Affairs, Government of India should extend rehabilitative measures to persons who had suffered in the similar circumstances. The Court expressed the view that prolonged incarceration of Indian citizens in foreign jails would require rehabilitative measures. This was considering that the petitioner's incarceration in Pakistan was wholly unjustified considering that he was not working for India in that country.

5. Considering the above observations made by the Court in the order dated 01.04.2013, the petitioner was granted an *ex gratia* payment of ₹4,00,000/-. In the order dated 13.08.2014, this Court noticed that the said amount was tentative and was required to be moderated keeping the view the socio-economic condition of the petitioner and an enquiry in this regard was pending.

6. The enquiry is since complete and the affidavit filed on behalf of the respondents indicates that the petitioner has now shifted to Shimla and is married to one Smt Pinki who is working as a Peon in the DDU Hospital at a monthly wage of ₹17,179/-. The petitioner is also employed as a private Taxi Driver and is presently residing with his wife in a government accommodation allotted to his wife.

7. The learned counsel for the respondents further stated that considering the case of the petitioner, the *ex gratia* payment of ₹4,00,000/- has been made on the humanitarian ground as the full and final measure for his rehabilitation.

8. Given that the petitioner and his wife both are gainfully employed, this Court does not consider it necessary to direct any further specific rehabilitative measures are required to be taken in the case of the petitioner.

9. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

JANUARY 19, 2018
RK