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

+ **LPA 604/2018**

RAMESH CHAND ..... Appellant

Through: Mr. Syed Hasan Isfahani and  
Mr. Parvez Zaidi, Advocates.

versus

JAMIA MILLIA ISLAMIA ..... Respondent

Through: None.

**CORAM:**  
**JUSTICE S.MURALIDHAR**  
**JUSTICE SANJEEV NARULA**

% **ORDER**  
**23.10.2018**

**CM APPL. 44182/2018 (Exemption)**

1. Exemption allowed, subject to all just exceptions.

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2. This is an appeal against the judgment dated 27<sup>th</sup> September, 2018 passed by the learned Single Judge dismissing the W.P. (C) 8103/2017. The prayer in the writ petition was for a direction to the Respondent release to the appellant the pension and gratuity which according to him, he was entitled to under the Central Civil Services (Pension) Rules, 1972.

3. The facts and brief relevant for the present appeal is that the Appellant challenged the order passed by the Respondent compulsorily retiring him from service pursuant to an alleged misconduct committed by him while in service. The Labour Court found the order of compulsory retirement to be illegal and unjustified and that the commission of misconduct by the Appellant had not been proved. However, the Labour Court disallowed the Appellant's prayer that he should be reinstated with continuity of service and consequential benefits. The Labour Court granted him compensation in lieu of reinstatement and computed the compensation at 50 percent of the back wages apart from litigation expenses of Rs. 25,000/-.

4. This order of the Labour Court was unsuccessfully assailed by the Appellant before the Single Judge of this Court in W.P.(C) 2669/15 which was dismissed on 28<sup>th</sup> April, 2015. The Division Bench of this Court dismissed the Appellant's LPA 568/2018 by judgment dated 26<sup>th</sup> August, 2015. Further, the Supreme Court dismissed his SLP (C) 3608/15 on 8<sup>th</sup> January, 2016. Consequently, the order of the Labour Court granting the Petitioner compensation in lieu of reinstatement, while setting aside the order of compulsory retirement, became final.

5. In this second round of litigation, the Appellant filed a writ petition seeking directions to the Respondent to grant him pension and gratuity. The learned Single Judge rejected the prayer by holding that since the order of compulsory retirement was struck down and the Labour Court granted the Appellant compensation in lieu of reinstatement, all other benefits i.e. continuity in service with all consequential benefits "was expressly

disallowed by the Labour Court”.

6. Learned counsel for the Appellant relied on para 18 of the decision of the Supreme Court in ***K.C. Sharma v. Delhi Stock Exchange (2005) 4 SCC 4*** where it was observed, on the facts of that case, that apart from compensation in lieu of reinstatement and back wages which was computed at Rs. 15 lakhs “the appellant shall be given terminal benefits, if any, admissible under the terms of service”.

7. The learned Single Judge has distinguished the applicability of the said decision to the case of the Appellant on facts. This Court has also examined the said decision. Unlike in the said decision where the Supreme Court specifically directed that the Appellant in that case shall be given the terminal benefits, in the present case when the Labour Court passed its order, there was no such direction.

8. That order of the Labour Court attained finality with the challenge thereto by the Appellant being unsuccessful at every stage i.e. both for the learned Single Judge and Division Bench of this Court as well as the Supreme Court. It was open to the Appellant to have urged at any of those stages that the Labour Court ought not to have stopped at granting him compensation in lieu of the reinstatement but should also have granted him the terminal benefits, if any that were admissible to the Appellant. Indeed, the Appellant had missed the bus as far as that prayer is concerned.

9. This Court is unable to find any error having been committed by the

learned Single Judge in dismissing the petition.

10. The appeal is accordingly dismissed.

**S.MURALIDHAR, J.**

**SANJEEV NARULA, J.**

**OCTOBER 23, 2018**

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