$~23

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

Date of decision: 2nd August, 2019

\+ W.P.(C) 7748/2019 and CM APPL. 32176/2019

RAM CHAMELI ..... Petitioner

Through Mr. Naveen R. Nath, Mr. Rahul Jain and Mr. Siddarth Agarwal, Advs. from DHCLSC

versus

THE SR. DIVISIONAL FINANCE MANAGER AND ANR. ..... Respondents

Through Mr. Jagjit Singh and Mr. Preet Singh, Advs. for R-1
Mr. R.S. Raju, Mr. Suman Kukrety with Mr. Amit Babbar, Chief Manager, Mayapuri Branch, Syndicate Bank, R-2

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (ORAL)

1. Vide the present petition, the petitioner seeks direction to the Respondents to release the family pension that the Petitioner is entitled to from November, 2017 till date and for a further directions to the Respondent No.1 to issue appropriate instruction to Respondent No.2 to continue paying family pension at rates specified by law during her life time. She further

seeks directions thereby directing the respondents to jointly to pay interest 18% p.a. on the entire withheld amounts till actual payment. She also prays for directions to the respondent No. 2 Bank to pay an amount of ₹2 lakhs as compensation to the petitioner for wilfully violating the petitioner's right to pension under Article 14 and 21 of the Constitution of India for subjecting the Petitioner to deprivation while being aware that the frugal pension receivable by the Petitioner was a matter of her fundamental and statutory right.

2. The petitioner is a 86 year old widow of late Sh. Mehar Chand Katar, who was working with Delhi Division of Northern Railway, retired on 24.07.1980 and died on 26.08.1991. On the death of Late Shri Mehar Chand Katar, instructions were given to Syndicate Bank, Mayapuri Branch (Bank) to credit the family pension through the Pension Payment Order No. 0280663 (PRO) issued by the Northern Railways. The Petitioner started receiving regular family pension in her account from Northern Railways which was credited/paid through the Bank, ever since the death of her husband.

3. Learned counsel appearing on behalf of the petitioner submits that all of a sudden, the Respondent No.2 Bank stopped crediting the family pension

in Petitioner's account from November 2017 and the reason given was that the Bank had lost/misplaced the original Pension Payment Order [PPO] during shifting of its old records internally. The Respondent Bank has since been continuously insisting that the petitioner should produce a duplicate of the original PPO issued by the Northern Railways after the death of Late Shri Mehar Chand Katar. The Petitioner was never in receipt of the PPO personally as this is a formal document given by Northern Railways to the Bank for processing/crediting the family pension in the Petitioner's account. However, the Petitioner has approached Respondent No.1 Northern Railways as well as the Respondent No.2 Bank several times but to no avail.

4. Learned counsel for the petitioner submits that both the parties acknowledged the petitioner's right to the family pension but due to non-availability of PPO the same is not being paid to the Petitioner. Moreover, in a letter dated September 2018, Sr. Divisional Finance Manager, ADFM/Pension, Northern Railways, had instructed the Respondent No. 2 that the family pension be started at the earliest and that Northern Railways will serve all claims raised by the Bank in this head. Still no family pension is being credited in the Petitioner's account.

5. It is further submitted that the Petitioner being an old lady of 86 year

is facing immense financial hardship due to non-payment of family pension since November 2017 for no fault of her as the pay order has been lost by the Bank during their internal shifting of records.

6. Vide order dated 19.07.2019, this Court had directed that a Senior Officer of respondent no.2/Syndicate Bank, Delhi Circle shall personally remain present in Court on the next date of hearing with relevant records.

7. Pursuant thereto, Mr. Amit Babbar, Chief Manager of the respondent No. 2 Bank, through Mr. R.S. Raju Advocate, appeared in the Court and submits that the respondent No. 1 sent duplicate PPO to respondent No.2/Bank and accordingly, this amount of ₹2,54,826/- has been credited in the pension account of the petitioner. The said amount is towards the pension upto the month of June, 2019 and the respondents had assured this Court that the petitioner shall continue to receive regular pension.

8. The fact remains that because of the fault of the respondent No. 2 Bank, the petitioner suffered financial crisis as the pension amount has not been transferred to the petitioner, who is a widow of 86 years old.

9. Accordingly, I hereby direct the respondent No. 2 Bank to pay interest @7.5% per annum for delayed payment with effect from November, 2017 till July, 2019. The interest amount shall be credited in her account within

two weeks from today.

10. Due to the inaction and negligence on the part of the respondents, the petitioner was compelled to file the present petition and since she did not have sufficient amount to engage counsel to present her case, therefore, Mr. Naveen Nath Advocate was appointed as legal aid counsel. Accordingly, the respondents are directed to pay an amount of ₹50,000/- each as costs in favour of the petitioner. The costs amount shall also be credited in the pension account of the petitioner within two weeks from the receipt of this order.

11. The present writ petition is accordingly allowed and disposed of with the above directions.

12. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

August 02, 2019
PB