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

+ W.P.(C) 5874/2017

ASHEEM SRIVASTAV

..... Petitioner

Through: Mr G. S. Chaturvedi, Advocate.

versus

NATIONAL COMMISSION FOR PROTECTION
OF CHILD RIGHTS AND ORS

..... Respondents

Through: Mr Rajat Pahwa, Advocate for R-1
and R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.04.2019

1. The petitioner has filed the present petition, *inter alia*, impugning the last pay certificate (LPC) dated 19.07.2016 issued by respondent no.1 (NCPC). The petitioner further prays for a direction to be issued to the respondents to treat the petitioner on duty with effect from 21.04.2016 to 24.05.2016, and further leave from 19.02.2016 to 20.04.2016.
2. The controversy involved in the present petition stems from a Resolution dated 17.02.2016 passed by NCPC. By the said resolution, NCPC had requested Department of Personnel and Training (DoPT) for posting a suitable person in place of the petitioner. At the material time, the petitioner was functioning as a Member Secretary of NCPC. The petitioner had also filed a separate petition challenging the said Resolution before this Court in W.P.(C) 4426/2016.
3. The petitioner has already superannuated from the services and in that

sense, the principal controversy involved in the present petition has been rendered academic. In view of the above, the writ petition (W.P.(C) 4426/2016) was disposed of by an order dated 22.04.2019, by directing that the adverse observations made in the said impugned resolution dated 17.02.2016 would not be read to the prejudice of the petitioner in any manner.

4. It is also relevant to note that this Court had passed an order dated 25.05.2016 directing that the petitioner may be considered as on paid leave from that date. The only controversy that remains in the present petition relates to the absence of the petitioner from 19.02.2016 to 25.05.2016.

5. Mr. Charturvedi, the learned counsel appearing for the petitioner submits that the petitioner had applied for leave from 19.02.2016 for an indefinite period. He also states that he had sought to re-join services on 20.04.2016. However, was not permitted to do so. The learned counsel appearing for the respondents states that petitioner's application for leave was forwarded to the concerned authorities, but the same was not processed as there was no provision to grant indefinite leave.

6. It is apparent from the averments made in the present petition that there was a serious dispute relating to the petitioner continuing in services, with NCPC. Accordingly, in this context, this Court had directed that the petitioner be treated on paid leave from 25.05.2016.

7. In view of the controversy whether the petitioner had sought to rejoin the services on 21.04.2016, this Court considers it apposite to extend the said order from 21.04.2016 to 25.05.2016, as well. Accordingly, the leave of the petitioner would be treated as paid leave from 21.04.2016 to 25.05.2016, as well.

8. There is merit in the contention advanced by the learned counsel appearing for the respondent that the petitioner had himself applied for leave on 19.02.2016 and, therefore, should be considered on leave from that date. In view of the above, the petitioner's contention that his leave be treated as duly sanctioned from 19.02.2016 to 20.04.2016 is allowed.

9. To summarise the above, the petitioner's leave from 19.02.2016 to 20.04.2016 will be treated as an all earned leave, and thereafter would be treated as all paid leave on the strength of the orders passes by this Court.

10. The controversy with regard to the LPC relates to the treatment of leave. In this view, the LPC dated 19.07.016 is directed to be suitably modified, as a consequence of this order.

11. The learned counsel appearing for the petitioner states that NCPC should also be directed to release the arrears of pay on the basis of the 7th Pay Commission. This Court is not inclined to examine the controversy as the same is not the subject matter of the above petition. Needless to state that the pay and the benefits of the petitioner shall be disbursed, in accordance with the relevant rules.

12. No further orders are required to be passed in this petition. The same is disposed of.

VIBHU BAKHRU, J

APRIL 24, 2019
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