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

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Date of decision: 20.07.2021

+ **W.P.(C) 6738/2021**

ADNAN AMIR

..... Petitioner

Through: Mr. A.K. Bhardwaj with Mr. Karan
Gautam, Advocates.

versus

OFFICE OF THE DIRECTOR OF LOCAL BODIES THROUGH:
ITS DIRECTOR AND ORS

..... Respondents

Through: Mr. Arindam Dey, Advocate for
respondent no.2/SDMC.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Court hearing convened *via* video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. 21252/2021

1. Allowed, subject to just exceptions.

W.P.(C) 6738/2021 and CM APPL. 21253/2021 [Application filed on
behalf of the petitioner seeking leave to file additional documents]

2. This writ petition is directed against the order of the Central
Administrative Tribunal (in short 'Tribunal'), dated 06.08.2019.

2.1. Mr. A K Bhardwaj, who appears on behalf of the petitioner, says that,
the Tribunal misdirected itself in law while giving liberty to the petitioner to
make a representation to respondent no. 2/SDMC. The error, according to
Mr. Bhardwaj, is in confining the liberty to make representation qua
pensionary benefits that are tied to past services rendered by petitioner to
respondent no. 3, which, in effect, is the Public Works Department, of the
Government of Uttar Pradesh.

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2.2. Mr. Bhardwaj, however, concedes that a representation was made to the concerned authority pursuant to the order of the Tribunal, wherein the only relief sought, concerned recognition of past services for the purposes of grant of pensionary benefits.

2.3 According to Mr. Bhardwaj, the petitioner also has the right to claim pay protection, something which has not been considered by respondent no. 2/SDMC.

2.4. Learned counsel appearing for respondent no. 2/SDMC, on the other hand, draws our attention to the representation made by the petitioner pursuant to the aforementioned order of the Tribunal. Counsel for respondent no. 2/SDMC says that, the relief was sought in terms of observations made in paragraph 6 of the impugned order of the Tribunal, and therefore, respondent no. 2/SDMC, *via* order dated 10.11.2020, rendered its decision by confining itself to the grant of pensionary benefits.

3. We may note that, in the original application filed with the Tribunal, the petitioner had sought the following reliefs. (See paragraph 8 of the said original application, which is appended on page 61 of the paper book):

“a). to declare the action of respondents in not counting the past service rendered as JE (Civil) in PWD, Uttar Pradesh for the purpose of grant of pension under GPF Scheme / Old Pension Scheme and pay fixation as illegal, arbitrary and unjustified.

b) to direct the respondents to fix the pay of the applicant in the scale of Rs. 9300- 34500 with Grade Pay of Rs. 4200 by taking into account 6 increments earned by the applicant in the scale of Rs. 5000-8000 and give all consequential benefits including arrears of pay.

c) to direct the respondents to protect the pay of the applicant by fixing his pay as per last pay certificate and count his past service in UP, PWD from 10.07.2003 to 31.07.2009 for Pensionary benefits under Old Pension Scheme.”

3.1. Therefore, what has happened, in substance, is that, while the petitioner has been granted relief in terms of prayer clause (a), as embedded in the original application filed before the Tribunal, he has not been able to obtain reliefs that are incorporated in prayer clause (b) and (c) above.

4. Given the aforementioned circumstances, we have put to Mr. Bhardwaj as to, whether the petitioner, at this stage, would be satisfied, if he is given liberty to make a fresh representation to respondent no. 2/SDMC in terms of prayer clause (b) & (c), as noted above.

4.1. Mr. Bhardwaj says that, the petitioner would be satisfied if the aforementioned liberty is given, provided respondent no. 2/SDMC decides the same in accordance with the law, without being influenced by the observations made in paragraph 6 of the impugned order dated 06.08.2019.

4.2. On the other hand, counsel for respondent no. 2/SDMC, says that if leave is given to the petitioner to make a fresh representation, the same can be disposed of only as per law.

5. Given the aforesaid position, the writ petition is disposed of with a direction that the petitioner will make a fresh representation to respondent no. 2/SDMC with regard to the aspects referred to in prayer clause (b) and (c) contained in the original application.

5.1. It is made clear that, if a representation is made by the petitioner, the same will be disposed of by respondent no.2/SDMC by way of a speaking order, within four weeks of such representation being made. The concerned authority i.e. respondent no. 2/SDMC while taking a decision will do so without being burdened by the observations made in paragraph 6 of the Tribunal's order dated 06.08.2019.

5.2. Needless to add, respondent no. 2/SDMC will take a decision as per law, *albeit*, after granting personal hearing to the petitioner and/or his authorised representative.

6. Consequently, the pending application(s) shall stand closed.

RAJIV SHAKDHER, J

TALWANT SINGH, J

JULY 20, 2021

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Click here to check corrigendum, if any
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