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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 24.05.2022

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W.P.(C) 3016/2021

KISHAN LAL TANEJA

..... Petitioner

Through: Mr. Venkita Subramoniam TR
&Mr.Rahat Bansal, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr. Yeeshu Jain, SC, GNCTD with
Ms. Jyoti Tyagi &Ms.Surbhi Arora, Adv. for R1
Mr.Anuj Chaturvedi, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL. 17400/2022.

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 3016/2021 & CM APPL. 17399/2022 (additional documents)

3. The present writ petition under Article 226 of the Constitution of India has been preferred by a superannuated employee of the respondent no.2/Delhi Urban Shelter Improvement Board (DUSIB) seeking a direction to the said respondent to release all his terminal benefits, including the remaining 50% amount towards his leave encashment, and gratuity, which have remained unpaid since 2007.
4. It is the common case of the parties that the petitioner had retired as a

W.P.(C) 3016/2021

Page 1 of 3



Sociologist from the service of the respondent no.2 on 31.07.2007. At that stage part of his terminal benefits, including 50% amount payable towards his leave encashment and gratuity, were withheld on account of a pending criminal case against him. It is an undisputed position that the petitioner was acquitted in the said case on 28.02.2017, by a decision of the learned Special Judge (PC Act), Tis Hazari Courts, in Criminal Case No. 111/2008. After his acquittal, the petitioner, who was then 70 years of age, made various representations to the respondents seeking release of his unpaid terminal benefits, but to no avail. It is in these circumstances that the petitioner has approached this Court.

5. The petition is opposed by the respondents primarily on the ground that the judgment dated 28.02.2017, of the learned Special Judge, vide which the petitioner was acquitted, has not yet attained finality as an application under Section 378 (1) CrPC seeking grant of leave to appeal against the said judgment, is pending consideration before this Court since August 2017.
6. Learned counsel for the respondents therefore contends that the petitioner's terminal benefits have rightly not been released to him as the judgment of the learned Special Judge is under challenge before this Court and therefore, the matter regarding the petitioner's involvement in the criminal case, is still sub-judice. He submits that the petitioner's dues can therefore, be released only after the disposal of the aforesaid leave application. He therefore, prays that the writ petition be dismissed.
7. Having considered the submissions of the parties and perused the



record, I am unable to accept the respondent's plea. The petitioner has already reached the ripe age of 75 years, and is still to receive the fruits of his long service with the respondents, and that too, after he has been honourably acquitted by the Competent Court. In my considered opinion the mere pendency of an application seeking grant of leave to appeal against the judgment dated 28.02.2017 before this Court, cannot be a ground to deprive a senior citizen like the petitioner, of his rightful dues, for which he has been patiently waiting since 2007. However, in order to ensure that no prejudice is caused to the respondent, while allowing the writ petition with a direction to the respondent no.2 to release within four weeks, all the pending terminal dues of the petitioner, including the remaining 50% amount towards leave encashment and gratuity, it is directed that, the release of the said payment would be subject to the petitioner filing within one week, an affidavit of undertaking before this Court to refund the amount with interest, as may be directed by the Competent Court, in case the judgment of acquittal dated 28.02.2017 is set aside.

8. The writ petition is, accordingly, disposed of in the aforesaid terms.

(REKHA PALLI)
JUDGE

MAY 24, 2022
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