$~

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

Date of decision: 24.11.2022

\+ W.P.(C) 11341/2022

RAJENDER SINGH ..... Petitioner

Through: Mr.Shanker Raju with Mr.Nilansh Gaur, Mr.Rajesh Sachdeva, Advs.

versus

JAWAHARLAL NEHRU UNIVERSITY ..... Respondent

Through: Mr.Navdeep Singh, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The petitioner, who superannuated as a Security Guard from the respondent/ Jawaharlal Nehru University (JNU) on 31.10.2019, has approached this Court seeking a direction to the respondent to release his retiral benefits including gratuity, leave encashment, insurance and differential amount payable towards pension, alongwith arrears.

2. Learned counsel for the petitioner submits that the petitioner had a clean record throughout his long service of 38 years in the respondent, and no disciplinary proceedings whatsoever were initiated against him either while he was still in service, or after his superannuation on 31.10.2019. He submits that the only ground on which the respondent has denied him his terminal benefits and full pension, is that certain irregularities in the form of excess payment made to him in respect of LTC claimed by him in 2018, were pointed out in the Inspection Report of the transaction audit of the University carried out for the year 2017-18. The petitioner was informed of

the same vide a charge memo issued by the University on 12.04.2019, but after he submitted his reply on 21.05.2019, no action whatsoever was taken against him and upon his superannuation, he was issued a 'No dues' certificate. However, after his superannuation on 31.10.2019, and despite no action having been initiated against him, he has been only sanctioned provisional pension, and his entire gratuity, leave encashment and other terminal benefits have been withheld by the respondent. He therefore, prays that the respondent/University be directed to forthwith release the petitioner's aforesaid terminal benefits with up-to-date interest @ 12% per annum, alongwith his full pension and arrears.

3. The writ petition is sought to be opposed by the respondent on the ground that, as per the Inspection Report submitted in 2018, it was found that some excess payment towards his LTC claim for airfare in respect of his visit to Port Blair in 2018, had been claimed by the petitioner. He submits that even though, the Competent Authority has already been approached for obtaining the necessary sanction for initiating disciplinary action against the petitioner, no final decision has yet been taken. Till a final decision regarding the disciplinary action, if any, to be initiated against the petitioner, is taken, he cannot be released his terminal dues. He, therefore, contends that the release of the terminal benefits of the petitioner have rightly been kept in abeyance till a final decision is taken as to whether disciplinary action is to be taken against him.

4. Having considered the submissions of learned counsel for the parties and perused the record, I find that it is the respondent's own stand that the purported excess payment claimed by the petitioner towards LTC was discovered upon an audit report having been conducted for the year 2017-

18, which report has been placed on record along with the counter affidavit. It also transpires that it is the respondent's own case that, despite a charge memo regarding the purported irregularities having been issued to the petitioner way back on 12.04.2019, which was duly replied to on 21.05.2019, no action has been initiated against him till date, and on the other hand, he was issued a 'No dues' certificate at the time of his superannuation.

5. There is no explanation by the respondent as to why no final decision regarding taking of any disciplinary action against the petitioner has been taken, even after more than three years since his superannuation. Except the bald statement that a final decision is likely to be taken soon, the counter affidavit is silent as to how the respondent can continue to withhold the petitioner's terminal benefits, when, till date, not even any show cause notice has been issued to him on the ground of him having claimed excess amount towards LTC in 2018.

6. In my considered view, once the respondent has failed to take any action against the petitioner, even after more than three years since he superannuated from service, there is absolutely no justification for the respondent not to release the terminal benefits of the petitioner, who has superannuated from the respondent after a long service of 38 years. An employee after rendering long years of service, especially like the petitioner, who has otherwise had a clean record throughout his service, looks forward to receiving his terminal benefits and pension, which would give him some succour in his old age. A retired employee cannot be expected to wait endlessly for his employer to take a decision regarding initiating action disciplinary against him, for certain purported excess payment made to him

years ago.

7. The writ petition is, accordingly, allowed and the respondent is directed to release, within four weeks, entire terminal dues of the petitioner, including the differential amount payable to him toward his pension. In case, the payment is not made within four weeks, the same will bear interest @6% per annum. However, in order to safeguard the interest of the respondent, the petitioner is directed to file, before this Court, within one week, an affidavit of undertaking stating therein that, in case, any amount is found payable from the appellant in any appropriate proceedings, which may be initiated against him by the respondent, the same will be refunded by him, subject to any appellate remedy as he may be entitled to avail.

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

(REKHA PALLI)
JUDGE

NOVEMBER 24, 2022
sr