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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12533/2021 & CM APPL. 39457/2021

Decision delivered on: 11.01.2022

S. S. CHAUHAN

.....Petitioner

Through: Mr Sanjay Kumar, Advocate.

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr D.S. Mahendru, Senior Panel
Counsel.

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):

1. This writ petition is directed against the order dated 23.03.2021, passed by the Central Administrative Tribunal [in short “the Tribunal”] in O.A. No. 650/2021.
2. Mr Sanjay Kumar, who appears on behalf of the petitioner, says that, the only grievance of the petitioner, which survived in the second round before the Tribunal, concerned payment of interest delayed release of retiral benefits.
3. On the last date i.e., 09.11.2021, we had asked Mr Kumar to place on record a copy of the O.A.No.420/2013, which was filed by the petitioner in the first round.
- 3.1. Pursuant to the aforesaid order dated 09.11.2021, Mr Kumar has placed a copy of the O.A. No.420/2013 on record. The reliefs sought in the said O.A. are set forth hereafter:



*“(i) To call for the records of the case;
(ii) To quash and set aside the impugned charge memo No. C.No.5-vig/Dl-IV/2012/3306 dated 30.07.2012;
(iii) To direct the respondents to confer all the retirement benefits to the applicant **along with consequential benefits like payment of interest for the delayed payment etc.**”*

3.2. Admittedly, the Tribunal ruled in favour of the petitioner and quashed the charge memo dated 30.07.2012. This order was passed by the Tribunal on 13.03.2014.

3.3. The respondents, being aggrieved by the order dated 13.03.2014, had assailed the matter by way of a writ petition i.e., WP (C) No. 6108/2014, titled ***Union of India and Another vs. S.S Chauhan***. A Division Bench of this Court dismissed the respondent's writ petition i.e., WP (C) No. 6108/2014 via order dated 11.12.2019, along with a batch of other connected writ petitions.

3.4. It is, thereafter, that the petitioner filed a fresh O.A. i.e., O.A 650/2021, in which the impugned order dated 23.03.2021, has been passed. The Tribunal has dismissed the petitioner's O.A., for reasons given in paragraph 5 of the said order. For the sake of convenience, the same is extracted thereafter: -

“5. The only relief claimed in this OA is the one of payment of interest. It is fairly well settled that any writ petition or OA cannot be maintained exclusively for the purpose of payment of interest. It is only when a Court or Tribunal passed an order directing payment of certain amount, then the directions as to the interest thereon, are issued. Independently, payment of interest cannot constitute the subject matter of adjudication. Further, it is not, as if, the withholding of the pensionary benefits of the applicant was without any basis. Rule 69 of the CCS (Pension) Rules 1972, mandate that wherever an employee is (a) placed under suspension; (b) faced departmental proceedings or (c) faced criminal proceedings, as on date of retirement, he shall be



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paid only the provisional pension and other benefits are liable to be withheld. The immediate preceding Rule, namely, Rule 68 of Pension Rules provides for payment of interest on delayed payment of gratuity. Rule 69 is an exception for that. As long as the disciplinary or criminal proceedings were pending, the occasion to release the pensionary benefits does not arise. Further, if there was absolute~ no justification for initiation of disciplinary proceedings at all, it is only for the concerned Court which dealt with the charge sheet or criminal cases to pass appropriate orders, as regards payment of interest also.

4. Having examined the record and heard the learned counsel for the parties, we are not inclined to interfere with the order of the Tribunal.

4.1. Apart from anything else, it is quite clear that the petitioner had sought the relief for the payment of interest on retirement benefits, which was not granted by the Tribunal while disposing of the earlier O.A i.e., O.A. No. 420/2013. Therefore, apart from anything else, on the principle analogous to constructive *res judicata*, no interference is called for with the order of the Tribunal, dated 23.03.2021. The Tribunal has, however, as noticed above, furnished various grounds for declining relief to the petitioner, including the ground that the respondents were justified in withholding retirement benefits, till such time the charge memo was alive and/ or pending.

5. The writ petition is, accordingly, dismissed. Consequently, pending application shall stand closed.

RAJIV SHAKDHER
(JUDGE)

TALWANT SINGH
(JUDGE)

JANUARY 11, 2022/mr

[Click here to check corrigendum, if any](#)