



\$~57

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

%

Judgment delivered on: 14.09.2022

+ W.P.(C) 13339/2022 & CM APPL. 40462/2022

REKHA SHARMA

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Jai Bansal, Advocate.

For the Respondents: Mr. T.P. Singh, Senior Central Govt.
Counsel for UOI with Mr. Rishav Dubey,
GP.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 17.03.2021 whereby, the Original Application filed by the petitioner impugning the Office Memorandum dated 12.05.2014 whereby the recommendations of the 6th Pay Commission were implemented, has been dismissed solely on the ground that she did not file a petition, while she was in service.



2. The Tribunal has noticed that even the recommendations of the 7th Pay Commission have been implemented.
3. Issue notice. Notice is accepted by learned counsel appearing for the respondents.
4. It is settled position of law that the fixation of pay scale and the consequential benefits post retirement is a continuing cause of action. Merely because petitioner does not challenge the same while in service, does not become a ground to reject the petition without consideration on merits.
5. Alleged anomaly has been pointed out by the petitioner, which the Tribunal should have examined on merits rather than closing the issue solely on the ground of limitation.
6. Since the Tribunal has rejected the petition solely on the ground of limitation without examining the alleged anomaly pointed out by the petitioner on merits, we are of the view that this order cannot be sustained and the matter needs to be remitted to the Tribunal for a fresh consideration on merits.
7. In view of the above, impugned order dated 17.03.2021 is set aside. The Original Application is restored on the records of the Tribunal. The Tribunal is directed to examine the same on merits.
8. Respondents shall file a counter affidavit on the records of the Tribunal within eight weeks. Rejoinder thereto, if any, be filed within four weeks thereafter.



9. Parties shall appear before the Tribunal for directions on 14.12.2022.

10. Petition along with pending application is disposed of in the above terms.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

SEPTEMBER 14, 2022

nd

न्यायमेव जयते