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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 % **Date of decision: 11.02.2022**

+ **W.P.(C) 2681/2022 & CM APPL. 7669/2022**

**CENTRAL COUNCIL FOR RESEARCH IN UNANI
 MEDICINE**

..... Petitioner

Through Mr Kumar Onkareshwar, Adv.
 versus

DR. SALMA KHATOON & ORS. Respondents

Through Mr Arun Bhardwaj, Mr Yogesh
 Mahur and Mr Harkesh, Advs. for
 R-1.
 Mr Yeeshu Jain, Adv. for DOE.

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. 7670/2022

1. Allowed, subject to just exceptions.

W.P.(C) 2681/2022 & CM APPL. 7669/2022*[Application filed on behalf
 of the petitioner seeking interim relief]*

2. This writ petition is directed against the order dated 20.09.2021,
 passed by the Central Administrative Tribunal [in short, “the Tribunal”] in
 O.A. No.2058/2021.

2.1. The record shows that respondent no.1 had approached the Tribunal
 with the grievance that she was not being paid her retiral benefits.

3. It is not disputed before us by the counsel for the parties that
 respondent no. 1, in another matter i.e., W.P.(C.) 9554/2018, is agitating that
 her age of superannuation ought to be 65 years and not 60 years.

3.1. Briefly, respondent no.1 in the aforesaid writ petition is claiming



parity with the age of superannuation provided for General Duty Medical Officers and Specialists in Central Government and its allied medical care institutions. In this context, respondent no.1, it appears, seeks to rely upon the decision of the Government of India dated 31.05.2016.

3.2. The aforesaid writ petition, we are told, is pending adjudication before this Court.

4. Notwithstanding the above, in the usual course, even according to the petitioner, respondent no.1 would have retired on 31.01.2018.

4.1. It appears that because respondent no.1 has preferred the aforementioned writ petition i.e., W.P.(C.) 9554/2018, her retiral benefits are not released leaving her bereft of necessary financial resources.

4.2. It may be relevant to note that an interim order dated 12.09.2018, was passed by the coordinate bench in W.P. (C.) No.9554/2018. Via this order, in effect, a direction was issued for continuation of respondent no.1 in service, albeit, without remuneration.

4.3. However, an application for recall of this order [i.e. order dated 12.09.2018] was filed by the petitioner which was dismissed *via* order dated 23.01.2020.

4.4 We may note that both the orders [i.e., orders dated 12.09.2018 and 23.01.2020, passed in W.P.(C) No.9554/2018] were set aside by the Supreme Court in Civil Appeal No.2476-78/2020, *via* order dated 01.06.2020.

5. The Tribunal has considered the aforementioned aspects and after doing so, passed the following operative directions:

" 9. We are convinced that the Writ Petition, pending in the Hon'ble High Court, is for different cause of action, i.e.,



enhancement of age of retirement from 60 years to 65. However, it is evident from the record that the applicant superannuated on 31.01.2018 and at that time, no disciplinary or judicial proceedings were pending against the applicant. This fact has also not been refuted by learned counsel for respondents. The applicant herein is suffering financially due to non-release of her pension and other retiral dues, despite being in service for almost about 35 years. Therefore, at least the retiral dues of the applicant up to her date of superannuation, i.e., 31.01.2018 should be released by the respondents, so as to enable her to sustain her livelihood and day to day affairs. The pension is not a bounty payable on the sweet will and the pleasure of the Government, but the right to receive the same. It is property under Article 300(A) of the Constitution of India and the State cannot withhold it. Accordingly, we are of the considered view that at least the retiral dues of the applicant up to her date of superannuation, i.e., 31.01.2018, should be released by the respondents in a time bound manner.

10, In view of the above, the present O.A. is disposed of by directing the respondents to release the retiral dues of the applicant up to her date of superannuation i.e., 31.01.2018, as no disciplinary or judicial proceedings were pending against the applicant, within a period of three months from the date of receipt of copy of this order. It is made clear that the question of payment of wages due to the applicant from 22.01.2018 to 12.06.2020 shall be decided in terms of the decision of the Hon'ble High Court in the pending Writ Petition No. 9554/2018. There shall be no order as to costs."

6. Mr Kumar Onkareshwar, who appears on behalf of the petitioner, says that the petitioner envisages difficulty in releasing respondent no.1's retiral dues, in view of the pendency of W.P.(C.) No.9554/2018.

6.1. In our opinion, there should be no difficulty in the petitioner releasing retiral dues of respondent no.1, since it is the petitioner's own case that respondent no.1 superannuated on 31.01.2018. Given this position,



respondent no.1's circumstances cannot be worse than that which obtained on 31.01.2018.

6.2. In case, respondent no.1 succeeds in the pending writ petition i.e., W.P. (C.) No.9554/2018, necessary adjustments can be made at that time.

7. We find no merit in the writ petition.

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

RAJIV SHAKDHER, J

TALWANT SINGH, J

FEBRUARY 11, 2022/rb

Click here to check corrigendum, if any