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

% *Date of Decision: 30th May 2023*

+ W.P.(C) 5310/2019

SH. G. L. VERMA

..... Petitioner

Through: Mr. Hem C. Vashisht, Advocate
with Ms. Monika, Daughter of Petitioner in
person.

versus

DY. DIRECTOR OF EDUCATION (SOUTH EAST) AND
ORS.

..... Respondents

Through: Mr. N.A. Khan, Advocate for
R-1, R-2 and R-4 with Mr. Tanveer Alam,
OSD of DoE.

Mr. Akshit Kapur, Advocate with
Ms. Shagun Khanna, Deputy Branch
Manager, SBI.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

"a) A writ of Mandamus or any other appropriate writ, order or direction, directing the respondent to dispose off the representations dt. 18.04.2016 of the petitioner within two weeks.

b) A writ of Mandamus or any other appropriate writ, order or direction, directing the respondent to release the bonafide and legitimate dues amounting to Rs. 5,58,847/- to petitioner immediately within two weeks. Failing which the petitioner is entitled to the interest @ 18 p.a. till its realization in the interest of justice.

c) Cost of the petition is also awarded."



2. Petitioner is the husband of late Smt. Krishna Verma (hereinafter referred to as 'Smt. Verma'), who was working in Government Senior Secondary School, Lajpat Nagar-I, as PGT and retired on 31.01.1996. As per the averments in the writ petition, on 31.01.1996 Smt. Verma signed on five bills in acknowledgement of receipt of retiral amounts totalling to a sum of Rs.7,34,228/- which included DCRG, commutation, leave encashment, GPF and CGEIS. It is further averred that although bills were signed in acknowledgement of receipt of the entire amount, however, actually Smt. Verma had received only a sum of Rs.1,75,381/- and the balance was never paid.

3. Petitioner filed the present writ petition in the year 2019 on the basis of a diary maintained by Smt. Verma, in which an outstanding amount of Rs.5,58,847/- was reflected. It is the case of the Petitioner that he visited the Respondents a number of times for payment of the balance amount and also filed a complaint with the Directorate of Education ('DoE') in 2016, but there was no response.

4. An affidavit has been filed on behalf of DoE in which it is stated that Petitioner has approached this Court after 23 years from the date of retirement of Smt. Verma. It is further stated that on her retirement on 31.01.1996, all outstanding dues were paid to her as per the available records by way of five different cheques in January/February, 1996, which were issued in her name by Respondent No. 4 i.e. Pay and Accounts Office-I, R.K. Puram, New Delhi, whose account was being maintained at SBI, R.K. Puram Branch. As per the Acquaintance Roll, cheque No. 65194 dated 30.01.1996 was received by Smt. Verma on 31.01.1996 for an amount of Rs.1,75,381/- and cheque No. 65205 dated 01.02.1996 was received



on 01.02.1996 for a sum of Rs.5,58,847/- and her signatures are available on the revenue stamps in acknowledgement thereof. After the 5th CPC recommendations, Smt. Verma also received cheque No. 639680 dated 28.08.1998 for an amount of Rs.1,75,958/- towards leave encashment arrears and cheque No. 369577 dated 28.08.1998 for Rs.1,762/- towards pay fixation arrears and this is also acknowledged by her by signing on the revenue stamps. It is thus submitted that there is no default on the part of the Respondents and in case the Petitioner failed to encash the cheques, Respondents cannot be blamed.

5. The controversy between the parties centres around the receipt of balance payment towards retirement benefits. While the Petitioner urges that some pages of a diary maintained by his deceased wife Smt. Verma show an outstanding balance, Respondents have taken a position on an affidavit that all benefits were released, mostly through cheques and a small amount in cash. There is no doubt that Petitioner has approached the Court after 23 years of retirement of Smt. Verma and it is equally undisputed that during her lifetime, she had never raised any demand or grievance for non-payment. Respondents have also taken a position that the records are very old and as per the procedure prescribed, they have been weeded out and the only thing that is available is the Acquaintance Roll. In order to resolve the conundrum as to whether the cheques were encashed by Smt. Verma, this Court had called upon the State Bank of India, R.K. Puram Branch to ascertain if the cheques were encashed and a detailed order to this effect was passed on 23.02.2023, incorporating the details of the amounts and dates of cheques. Court had also requested the



Branch Manager to trace out the details of the accounts so that some light could be shed on the payments.

6. Pursuant to the directions of the Court, Ms. Shagun Khanna, Deputy Branch Manager, SBI had appeared on the earlier dates and assured that efforts will be made to trace out the records. Today, the Court is informed that all available digital records have been verified but these are of no consequence to the present controversy since the cheques in question relate to the year 1996 and digital records are available only upto the year 2004 since prior thereto the accounts were maintained in physical records, which have been weeded out being very old records. The Court must put on record the sincere and untiring efforts of the Bank and the officials of the Respondents in attempting to resolve the issue of payment of retirement dues of Smt. Verma. However, despite all the efforts, this Court is unable to reach to any conclusion in the absence of the records as only the bank statement of the account of the Respondents would have reflected the debits. It must be noted, at this stage, that Petitioner has during the course of hearing shared with the Respondents the original passbook purportedly for the relevant period to contend that there are no credit entries of the balance dues. To my mind, this cannot by itself lead to a finding that the amounts were actually not credited. As rightly contended by the Bank and other Respondents, Smt. Verma may have opened another account in which the balance amount may have been deposited. Since the matter is now in the realm of serious disputed questions of fact and evidence, which cannot be gone into in a writ petition, no further orders can be passed in this petition. The position that obtains today is that all the relevant records for the period 1996



have been weeded out both by the School and the Bank and only the Petitioner can be blamed for having approached the Court after 23 years.

7. At this stage, counsel for the Petitioner submits that he may be given liberty to take recourse to other remedies by which he may be able to establish that the cheques were never encashed by Smt. Verma. While this Court is unable to fathom as to how the Petitioner would establish the plea in the absence of any records, be that as it may, liberty is granted to the Petitioner to take recourse to appropriate remedies available in law to seek the reliefs sought in the present petition. It is made clear that this Court has not expressed any opinion on the merits of the dispute as to whether the Petitioner encashed the cheques or not and as and when the Petitioner approaches the appropriate forum, if so advised, it will be open to the concerned forum to decide the matter in accordance with law. It is also left open to the Respondents to defend the matter as and when called upon to do so.

8. Writ petition is accordingly disposed of in the aforesaid terms.

JYOTI SINGH, J

MAY 30, 2023/shivam