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

% *Date of Decision: 17th May, 2023*

+ **W.P.(C) 5994/2023**

DR KEDAR NATH TRIPATHI Petitioner

Through: Mr. Vibhor Verdhan,
Ms. Manisha Mehta, Mr. T.C. Sasedharan
and Mr. Dhayanidhi V., Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Raj Kumar Yadav,
Ms. Arushi Kapur, Ms. Nitya Sharma and
Mr. Umakant Mishra, Advocates for UOI.
Mr. Siddharth, Standing Counsel with
Mr. Amit Kumar Agrawal, Advocate for R-2
and R-3.
Mr. Satish Kumar, Advocate for R-5.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

C.M. APPL. 23507/2023 (Exemptions)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. Present writ petition has been filed seeking the following reliefs:-

"i. issue a Writ of Mandamus directing the Respondent No. 1 and Respondent No. 2 to sanction and issue the Pension Payment Order (PPO) in favour of the petitioner as per Employees Pension Scheme, 1995 in favour of the Petitioner herein;

ii. issue a Writ of Mandamus directing the Respondent No. 1 and Respondent No. 2 to sanction and release the actual pension as per Employees Pension Scheme, 1995 in favour of the Petitioner herein;

iii. issue a Writ of Mandamus directing the Respondent No. 1 and Respondent No. 2 to sanction and release the actual pension on higher wages as per Employees Pension Scheme, 1995 in favour of

the Petitioner herein and in consonance with the other employees who has been granted higher pensions;

iv. issue a Writ of Mandamus directing the Respondent No. 1 and Respondent No. 2 to clear the pending arrears of pension along with interest in favour of the Petitioner herein.”

4. Learned counsel for the Petitioner as well as counsels for the Respondents jointly agree that the issues raised in the present petition are squarely covered by the judgment of the Supreme Court in ***Employees Provident Fund Organisation & etc. v. Sunil Kumar B. & etc., 2021 SCC OnLine SC 630.***

5. Learned counsels for the Respondents submit that as a consequence of the directions issued by the Supreme Court, claims of the Petitioner shall fall in the following three categories and action shall be taken in accordance and consonance with the said directions within four months unless the time is extended by the Supreme Court:-

“i. Employees, who had retired from service before 01.09.2014 but had opted for pension above the ceiling limit, would be entitled to grant of pension above the ceiling limit. However, those employees who had retired before 01.09.2014 without submitting any option for pension above the ceiling limit, would not be entitled to receive any higher pension and would be governed by the ceiling imposed under Section 11(3) of the Pension Scheme.

ii. Employees, who had joined service for the first time only after 01.09.2014, would not be entitled to the membership of the pension scheme as amended w.e.f. 01.09.2014 and would in fact, be governed by the provisions of the Provident Fund Scheme.

iii. Employees, who had joined services before 01.09.2014 and were still in service on or after 01.09.2014, would be entitled to receive pension above the ceiling limit, subject to their either having already opted for the same or opting for the same during the four months' time as granted by the Apex Court.”

6. Learned counsel for the Petitioner does not dispute that after the directions passed by the Supreme Court, claims of the Petitioner will be adjudicated in accordance with the categorization made and summarization of the principles therein. He, however, puts forth that

there are certain clarification applications and review petitions filed by some candidates who retired before 01.09.2014, which are pending consideration before the Supreme Court and the outcome may have a bearing on the claims raised by the Petitioner.

7. Insofar as the present writ petition is concerned, once the Supreme Court has decided the issues and laid down guidelines in respect of each category of employees, there is no reason to keep the writ petition pending and the same is accordingly disposed of directing the Respondents to decide the claims of the Petitioner strictly in accordance with the judgment in *Employees Provident Fund Organisation (supra)* and grant the pensionary benefits accordingly within four months from today, unless the period is extended by the Supreme Court.

8. The apprehensions expressed by the Petitioner that the outcome of the pending clarification applications or Review Petitions may have a positive bearing on his case can be allayed and put to rest by granting liberty to the Petitioner to seek revival of the present writ petition in case the Supreme Court modifies any direction or passes any additional direction which inures to the benefit of the Petitioner.

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

JYOTI SINGH, J

MAY 17, 2023/shivam/kks