

\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 10.01.2023

+ W.P.(C) 15941/2022
RAJO

..... Petitioner

Through: Mr. Chirayu Jain, Adv.

versus

DELHI BUILDING AND OTHER CONSTRUCTION WORKERS
BOARD & ANR.

..... Respondent

Through: Mr. Abhay Dixit with Mr. Ankit
Kumar, Advs. for R-1.
Avni Singh and Mr. Deepak
Chaudhary, Advs. for R-2.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The petitioner, who is a construction worker, duly registered with the Building and Other Construction Workers Welfare Board (hereinafter referred to as 'the Board'), has approached this Court seeking a direction to the respondent Board to release the pension payable to her under the Building and Other Construction Workers, Act 1996 (hereinafter referred to as 'the Act') with interest @18% per annum.
2. When the present petition was taken up for preliminary consideration on 18.11.2022, learned counsel for the respondent no. 1 had sought time to obtain instructions. Today, he submits that an order has been passed by the respondent on 06.01.2023 sanctioning pension in favour of the petitioner w.e.f. 01.02.2021 i.e., the date when she became eligible for receiving

pension as per rules.

3. Learned counsel for the petitioner, while not denying that pension has now been sanctioned in the petitioner's favour, submits that the respondent having delayed the sanctioning of pension in the petitioner's favour despite her having become eligible to receive the same w.e.f. 01.02.2021, ought to pay interest to her @18% per annum on the delayed amount of pension.

4. In support of his plea that the interest ought to be paid on the delayed amount of pension, he places reliance on the decisions of the Apex Court in *"State of Kerala and Others vs. M. Padmanabhan Nair"* (1985) 1 SCC 429; *"S.K. Dua vs. State of Haryana and Another"* (2008) 3 SCC 44; and *"D.D. Tewari (Dead) Through Legal Representatives vs. Uttar Haryana Bijli Vitran Nigam Limited and Others"* (2014) 8 SCC 894.

5. On the other hand, learned counsel for the respondent no.1 opposes the grant of any interest by contending that even though the petitioner has been found to be eligible to receive pension w.e.f. 01.02.2021, she had submitted all the requisite documents only by way of her reply dated 05.08.2022, and that too in response to the respondent's deficiency letter dated 06.07.2022. He submits that once the requisite documents were received from petitioner on 05.08.2022, expeditious steps were taken by the respondent to sanction pension in her favour. He, therefore, contends that the respondent cannot be faulted for the delay, if any, in sanctioning of the pension in favour of the petitioner. He, therefore, prays that the petitioner's prayer for grant of interest be rejected.

6. Having considered the submissions of the learned counsel for the parties and perused the record, I find that while there is no dispute that the petitioner was entitled to receive pension w.e.f. 01.02.2021, it is also an

admitted position that the requisite documents for sanction of pension were submitted by her only on 05.08.2022. In these circumstances, the respondent is justified in urging that pension could not be sanctioned in the petitioner's favour without her submitting the requisite documents and, therefore, it cannot be said that there was any inordinate delay on its part in sanctioning the pension payable to the petitioner. Even though, both, the Act and the Rules are silent regarding the time period within which the pension must be sanctioned, in my view, the respondent, which is enjoined with a statutory duty to disburse pension in favour of these construction workers, who play a crucial role in the building of the society, ought to take expeditious steps to ensure that pension is released to them at the earliest.

7. In the present case, the petitioner submitted all the requisite documents on 05.08.2022 and therefore, even if a period of 45 days is taken as a reasonable period for the respondent to have processed the petitioner's application for grant of pension, there is still a delay of more than three months in sanctioning the pension in her favour. Learned counsel for the respondent, except for stating that the respondent is dealing with 16 lakhs registered building and construction workers, is unable to provide any justification for this delay. The pension in favour of the petitioner has been sanctioned only on 06.01.2023 and that too after she was compelled to approach this Court.

8. I have also considered the decisions of the Apex Court relied upon by the petitioner, I find that the same unlike the present case, pertain to cases where the Court was dealing with grant of pension to government employees where the dates of their superannuation are known to the employers well in advance. In the present case, the Board, which is dealing with over 16 lakhs

registered building and construction workers, is discharging altogether a different responsibility and, therefore, the parameters applicable in the cases of government employees cannot be made *per se* applicable to the Board. However, this does not imply that the petitioner should not be paid any interest at all. In my view, it would be in the interest of justice that the petitioner should be paid interest on the delayed amount of pension after discounting 45 days from the date she submitted her documents on 05.08.2022. The writ petition is, accordingly, disposed of by directing the respondent to pay interest @ 6% per annum on the delayed amount of pension with effect from 21.09.2022 (after excluding 45 days w.e.f. 05.08.2022).

9. Before I conclude, I may observe that since the Act and Rules are silent regarding the time period during which the pension must be sanctioned to these workers after they attain the age of 60 years, it would save a lot of inconvenience to these workers if they are permitted to submit their applications six months prior to their becoming eligible for receiving pension. The respondent Board is, therefore, directed to consider accepting applications of the constructions workers six months before they become eligible for receiving pension so that once they reach the age of superannuation, their pension can be sanctioned, at the earliest, without any further delay.

10. The writ petition, accordingly, stands disposed with the aforesaid directions.

REKHA PALLI, J

JANUARY 10, 2023/acm