



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

% *Date of decision: 30th November, 2023*

+ W.P.(C) 15390/2023 & CM APPL. 61737/2023 and
CM APPL. 61738/2023

UNION OF INDIA & ORS.

..... Petitioner
Through: Ms. Arunima Dwivedi, CGSC with
Ms. Pinky Pawar and Mr. Aakash
Pathak, Advs.

versus

NAIN SINGH Respondent
Through: Mr. V.K. Goel, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE AMIT MAHAJAN

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 61738/2023

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 15390/2023

1. The challenge in this petition is to an order dated October 27, 2022 passed by the Central Administrative Tribunal in OA 334/2017, whereby the Tribunal has allowed the OA filed by the respondent herein by stating in paragraph 7 as under:

“7. Since the Hon'ble Apex Court has already held that pension is not a bounty which can be withheld by the respondents, this O.A. deserves to be allowed as the plea taken by the respondents that no record of the employment of



the applicant is available before them cannot be considered, as this is not the duty of the applicant to take care of the same. Hence, the O.A. is disposed of with a direction the applicant to produce before the respondents whatsoever documents are available with him, for getting his pensionary benefits. Thereafter, the respondents shall make the payment of the pensionary benefits along with the interest @ 6%, within a period of 90 days, of course from 3 years preceding from the date of filing of this O.A. in light of the aforesaid judgment passed by the Hon'ble Apex Court."

2. The claim of the respondent before the Tribunal was with regard to payment of his pensionary benefits including gratuity, provident fund (PF) and pension after attaining the age of superannuation.
3. The facts as noted from the record are that the respondent had joined the petitioner Northern Railway on October 25, 1963. He was posted as Booking Clerk at Bhatinda Railway Station in the year 1982. On June 8, 1986, a robbery took place and an FIR was lodged against him at Bhatinda itself. Finally he was acquitted in the said case by the Criminal Court on February 14, 1995.
4. It was the case of the respondent that on attaining the age of superannuation on January 7, 2001 no pensionary benefits were granted to him. It was also his case that he made a representation to the petitioners and also sought information under the RTI Act. As he was not granted pensionary benefits, he had no alternative but to approach the Tribunal for the relief of pensionary benefits which have been granted to him.



5. The impugned order is contested by the petitioners on the ground that the necessary record is not available and it is difficult to ascertain as to whether the respondent in fact would have continued in service till the date of his superannuation in January, 2001.

6. That apart, the fact is, having been acquitted in the year 1995, the respondent had not approached the Court seeking reinstatement, except the so-called representations said to have been made. According to the counsel for the petitioners, after acquittal, the respondent should have approached the Department and sought his reinstatement and the pensionary benefits on the date of retirement. Further, nothing has been placed on record by the respondent to show that he was not dismissed or terminated from the services of the petitioners.

7. However, on a specific query by this Court, the counsel do not deny that the respondent was an employee of the petitioners. If that be so, inference must be drawn that the relationship existed between the respondent and the petitioners.

8. The Tribunal rightly proceeded on the premise that the respondent was an employee of petitioners. Considering the fact that no action was taken by the petitioners terminating the services of the respondent, at least nothing has been placed on record and he had attained the age of superannuation, the Tribunal has rightly granted the pensionary benefits. The plea that the record is not available with the petitioners is no ground to deny the benefits. More so, non-availability of record is the making of the petitioners for which



the respondent cannot be put to any disadvantage/prejudice. In view of the above, no interference is called for with the impugned order.

9. The petition is dismissed.

10. The petitioners are granted three months time to comply with the order.

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Dismissed as infructuous.

V. KAMESWAR RAO, J

AMIT MAHAJAN, J

NOVEMBER 30, 2023/jg