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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1646/2023 & CM APPL. 6286/2023 -Stay.

GOVT. OF NCT OF DELHI AND ORS.

..... Petitioner

Through: Mr. Nitesh Kumar Singh, Adv. for
Ms. Avnish Ahlawat, SC, GNCTD.

versus

HARISH CHANDER SHARMA

..... Respondent

Through: Mr. A.K.Trivedi, Mr. Yash Jangra,
Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

15.04.2024

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1. The matter has been taken up today as 12.04.2024 was a holiday.
2. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 06.01.2023 passed by the learned Central Administrative Tribunal (the Tribunal) in M.A. No. 1500/2020.
3. We may note that M.A. No. 1500/2020 was filed by the respondent/applicant seeking execution of order dated 13.02.2019 allowing O.A. No. 4015/2016. Vide the impugned order, the learned Tribunal, after observing that the directions issued in the OA had not been implemented even after 4 years, has subject to payment of costs



of Rs.10,000/- , granted liberty to the petitioners to file an affidavit in support of its plea of having complied with the order passed in the OA. The learned Tribunal has further directed that the Director of Education, Govt. of NCT as also the Chief Controller of Accounts, Govt. of Delhi would remain present before the learned Tribunal on the next date of hearing.

4. Learned counsel for the petitioner submits that the impugned order has already been complied with and the necessary revised pension payment order had already been issued in favor of the respondent. By drawing our attention to the affidavits dated 6.10.2020 and 27.10.2020, learned counsel for the petitioners submits that the entire factual position was duly sought to be explained to the learned Tribunal which has without taking into account the contents of the affidavit dated 27.10.2020 directed the presence of the Director of Education, Govt. of NCT as also the Chief Controller of Accounts, Govt. of Delhi. He submits that the petitioners are ready and willing to appear before the learned Tribunal in the aforesaid pending M.A and explain how they have implemented the order dated 13.02.2019 passed in the OA. He, however, prays that the directions for appearance for the Director of Education, Govt. of NCT as also the Chief Controller of Accounts, Govt. of Delhi be set aside.
5. On the other hand, learned counsel for the respondent while contending that the order dated 13.02.2019 has still not been implemented, fairly submits that he has no objection to the petitioners appearing before the learned Tribunal and explaining how the said order stands implemented. He, however, prays that it may be made



clear that in case the petitioners still do not implement the order, it would be open for the learned Tribunal to pass appropriate orders.

6. Having perused the impugned order, we are of the view that once the petitioner is willing to explain as to how the order dated 13.02.2019 stands fully implemented, they should be granted an opportunity to place their stand before the learned Tribunal without the Director of Education, Govt. of NCT as also the Chief Controller of Accounts, Govt. of Delhi being compelled to appear in person. We, accordingly, modify the impugned order to the extent it directs the personal appearance of the Director of Education, Govt. of NCT and of the Chief Controller of Accounts, Govt. of Delhi, and, therefore direct the learned Tribunal to take up the aforesaid M.A on 10.05.2024 for consideration without insisting on the presence of the Director of Education, Govt. of NCT and of the Chief Controller of Accounts, Govt. of Delhi. It is however made clear that in case the petitioner desires to file any additional affidavit before the learned Tribunal, the same will be accepted only after subject to payment of costs of Rs. 10,000/- payable to the respondent.
7. While disposing of the writ petition by modifying the impugned order in the aforesaid terms, it is made clear that in case even after considering the petitioner's stand, the learned Tribunal is still of the view that the order dated 13.03.2019 passed in the OA has not been fully implemented, it will be open for the learned Tribunal to pass such further orders as it deems fit, making it clear that this Court has not expressed any opinion on the rival claims of the parties on merits.
8. The writ petition alongwith all pending applications stand dismissed



with the aforesaid directions.

REKHA PALLI, J

DR. SUDHIR KUMAR JAIN, J

APRIL 15, 2024

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