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

\+ W.P.(C) 1024/2019

JAG MOHAN BATRA .....Petitioner

Through: Ms. Abha Sharma, Mr. Anupam Maurya, Mr. Budh Ram, Advocates with Petitioner in person

versus

THE CHAIRMAN AND MANAGING DIRECTOR AND ANR. .....Respondents

Through: Mr. Shashwat Sharma, Advocate for R-1

Ms. Divya Singh, Ms. Larika Khandelwal, Advocates for R-2

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **17.12.2024**

1. This writ petition has been preferred on behalf of the Petitioner seeking a direction to Respondent No.1 to remit 114 days earned leave and 88 days half pay leave that was due for credit to Petitioner's leave account maintained with Respondent No.1.

2. Petitioner was a permanent employee of Respondent No.2/National Projects Construction Corporation Limited ('NPCC') and was working as Assistant Executive Engineer (Civil) at Bareilly TL Unit when he proceeded on deputation to Telecommunication Consultants India Ltd. (TCIL)/Respondent No.1, w.e.f. 25.01.1989 on usual foreign deputation terms and conditions.

3. It is averred that as per the consent letter dated 16.01.1989 sent by

Respondent No.2 to Respondent No.1, the latter was liable to pay to Respondent No.2: (a) leave salary contribution; (b) leave and CPF contribution; and (c) gratuity @ 15 days salary for each completed year of service or part thereof exceeding six months. The term of deputation was extended till 09.01.1992 and by Office Memorandum dated 06.01.1992, TCIL decided to permanently absorb the Petitioner. Petitioner gave his willingness for absorption and tendered his technical resignation with Respondent No.2, which was accepted and Petitioner was finally absorbed with Respondent No.1 w.e.f 09.01.1992.

4. As per Petitioner, TCIL was obliged to take immediate steps for remittance of leave salary contribution and gratuity contribution to NPCC to enable NPCC to transfer the leave at the credit of the Petitioner as well as gratuity to TCIL payable to him from the date of his appointment in the parent company till the date of his permanent absorption in TCIL. However, the matter was pending for a long time and no action was taken by either of the Respondents. In 1999, Respondents resolved the issue of gratuity and TCIL remitted a cheque of Rs.20,717/- dated 04.10.1999 to LIC being the amount transferred by NPCC towards gratuity. The issue of transfer of leave account however remained pending and almost after a span of 08 years, NPCC under a covering letter dated 15.11.2007 sent a cheque dated 15.11.2007 for a sum of Rs.27,018/-, an amount equivalent to the said earned leave/half pay leave of the Petitioner. However, for some unknown reason, the cheque was not accepted by TCIL alleging delay in remittance. Petitioner superannuated in July, 2019 and since his retiral dues were not released, he approached this Court.

5. Learned counsel for the Petitioner submits that there is no justified

reason for either of the Respondents to delay the release of earned leave and half pay leave due to the Petitioner upon absorption with TCIL as this was a part of the consent letter issued at the time of deputation. It is urged that TCIL was also not justified in returning the cheque sent by NPCC and the result is that Petitioner has not received the benefits due to him despite passage of six years from his superannuation.

6. Learned counsel appearing on behalf of TCIL submits that there was no delay or inaction on the part of TCIL, as the said Respondent was diligently pursuing the matter with NPCC and on 28.01.2005 had written a letter pointing out non-receipt of Rs.27,018/-. Counsel for NPCC in turn blames TCIL for not acting on time and returning the cheque tendered by NPCC in 2007.

7. After hearing learned counsels for the parties, this Court is of the view that there is no justifiable reason for the Respondents to have delayed the remittance of 114 days earned leave and 88 days half pay leave that was due for credit to Petitioner's leave account with NPCC, consequent upon his absorption with TCIL on 09.01.1992. Both Respondents are only blaming each other but the result of the delay is that there has been a consequential delay in release of complete retiral benefits of the Petitioner on his superannuation in July, 2019. Accordingly, this writ petition is allowed directing NPCC to remit an amount of Rs.27,018/- in respect of earned leave/half pay leave of the Petitioner to TCIL within a period of six weeks from the date of receipt of this order, whereafter TCIL shall credit the leave to the account of the Petitioner and release the monetary benefits within six weeks. Petitioner is also held entitled to interest @ 6% per annum from the date he filed the writ petition till actual payment and the interest liability will

be borne equally by the Respondents.

8. Writ petition stands disposed of in the aforesaid terms.

JYOTI SINGH, J

DECEMBER 17, 2024/*jg*