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

+ **W.P.(C) 6537/2024**

DULI CHAND

..... Petitioner

Through: Mr. Pradeep Kr. Kar and Mr. Sunil
Kamat, Advs.

versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. A. K. Bhakt, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

08.05.2024

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CM APPL. 27281/2024- Exp.

1. Exemption allowed, subject to all just exceptions.
2. The application stand disposed of.

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3. The present petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 08.01.2024 passed by the learned Central Administrative Tribunal (the Tribunal) in O.A. No. 76/2017. Vide the impugned order, the learned Tribunal has rejected the petitioner's claim for pay-scale of Rs. 4500-7000 w.e.f. 01.01.1986 as per the recommendations of the 5th CPC alongwith permissible upgradations.
4. Learned counsel for the petitioner submits that the petitioner, was vide order dated 03.02.1992, appointed as a Fitter(Auto) in the pay-scale of



Rs. 950-1500, a copy of which order was unfortunately not placed before the learned Tribunal by the petitioner's erstwhile counsel. Consequently the learned Tribunal dismissed the OA by holding that the petitioner was not able to show the pay-scale on which he was appointed. He, therefore, prays that the impugned order be set aside and the petitioner's claim be allowed on the basis of order dated 03.02.1992 which clearly shows that he was appointed in the pay-scale of Rs. 950-1500 and was therefore entitled to the replacement scale of Rs. 4500-7000 as per the recommendations of the 5th CPC.

5. Issue notice. Mr. A. K. Bhakt accepts notice on behalf of the respondent and supports the impugned order by contending that once the petitioner himself was unable to show to the learned Tribunal the pay-scale on which he was appointed, the learned Tribunal was justified in dismissing the OA.

6. Having considered the submissions of learned counsel for the parties and perused the impugned order as also a copy of the OA filed before the Tribunal, we find that though the appointment letter on which the petitioner is now relying was not placed before the learned Tribunal, but has been filed alongwith the present petition without disclosing that the same was not a part of the OA. Even though, we are of the view that this course of action adopted by the petitioner was incorrect, taking into account that the said document, if correct, is likely to support the case of the petitioner, we are refraining from commenting any further on this aspect.

7. In the light of the aforesaid, once the petitioner himself failed to place a copy of the appointment letter before the learned Tribunal, we find no infirmity with the impugned order. Having said so, we are of the view that



the petitioner should not be penalised for the purported oversight on the part of his erstwhile lawyer. The petitioner ought to therefore be granted an opportunity to place this basic document before the learned Tribunal, which would establish his claim that he was appointed as a Fitter(Auto) in the pay-scale of Rs. 950-1500. We, therefore, set aside the impugned order and remand the matter back to the learned Tribunal for fresh adjudication of the OA on merit. We also grant liberty to the petitioner to file all additional documents alongwith a supporting affidavit before the learned Tribunal within a period of two weeks.

8. Since we are granting permission to the petitioner to file additional documents, the respondent is also granted six weeks time to file an additional counter-affidavit. Rejoinder thereto, if any, be filed within four weeks thereafter.

9. List before the learned Registrar of the learned Tribunal on 18.07.2024 for further proceedings.

10. The writ petition is disposed of in the aforesaid terms.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 8, 2024/rr