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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 9470/2023

UNION OF INDIA & ORS.

..... Petitioner

Through: Mr. Balendu Shekhar, Ms. Krishna
Chaitanya, Mr. Raj Kumar Maurya, Advs.

versus

SAHANSRA PAL

..... Respondent

Through: Mr. P. Nagesh, Sr. Adv with Mr
Akshay Sharma, Adv

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

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19.01.2024

CM APPL. 66875/2023 -Dir. by Res.

1. This is an application filed by the respondent seeking dismissal of the writ petition with directions to the petitioner nos.2 & 3 i.e., his erstwhile employers to extend the benefit of the Pension Scheme under the CSS (Pension) Rules, 1972 (commonly known as the Old Pension Scheme) to him.
2. Issue notice. Learned counsel for the petitioners accepts notice.
3. Learned senior counsel for the respondent/applicant submits that vide the impugned order, the learned Central Administrative Tribunal has directed the petitioners to extend the benefit of the Old Pension Scheme to the respondent. He submits that now that the Ministry of Personnel, Public Grievances and Pensions has itself come up with a OM dated 03.03.2023 giving an option to all similarly situated employees, who were appointed against posts which were advertised or notified before 01.01.2004 and the admitted position that the respondent was appointed against a post which was notified before



01.01.2004, the petition deserves to be dismissed with directions to the petitioner to immediately extend the benefit of the Old Pension Scheme to the respondent.

4. On the other hand, learned counsel for the petitioners while not denying that such an option has been granted to all similarly placed employees submits that the grant of this benefit was subject to the employee submitting a specific option form. He submits that since the respondent did not submit any option in terms of OM dated 03.03.2023, the petitioners cannot be faulted for not extending the benefits of the Old Pension Scheme to him.
5. Having considered the submissions of learned counsel for the parties, we are of the view that though the learned counsel for the petitioner is correct in urging that the respondent did not submit any specific option in response to the OM dated 03.03.2023, the fact remains that this relief was already granted to him by the Tribunal under the impugned order. Once the respondent had already succeeded before the learned Tribunal in his claim for being governed by the Old Pension Scheme, we can appreciate his reluctance to submit another option form for the same relief as invited vide OM dated 03.03.2023. We are, therefore, of the considered view that in the light of these peculiar circumstances, when the learned Tribunal had already accepted the respondent's claim for extending the benefit of Old Pension Scheme to him, it will be unfair to deprive him of the benefit extended by the Ministry of Personnel, Public Grievances and Pensions, merely because he had not opted under the OM dated 03.03.2023. The application, therefore, deserves to be allowed. The same is, accordingly, allowed by dismissing the writ petition and



directing the petitioners to extend the benefit of the Old Pension Scheme to the respondent after making necessary adjustments of payments, if any.

6. The next date fixed in the matter stands cancelled.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 19, 2024/al