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

+ W.P.(C) 12201/2023

Y. S. TANWAR

..... Petitioner

Through: Ms. Abha Kulshreshtha, Adv.

Versus

UNION OF INDIA & ANR.

..... Respondent

Through: Mrs. Arunima Dwivedi, CGSC with
Mr. Rahul Sharma, G.P., Mr. Aakash Pathak and
Ms. Pinky Parekh, Advs. for UOI.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

16.01.2024

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1. The present petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 19.04.2022 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. No. 2923/2015. Vide the impugned order, the learned Tribunal has rejected the O.A. preferred by the petitioner/applicant.
2. Learned counsel for the petitioner submits that the OA was filed way back in 2015 and due to the Covid-19 pandemic, was not being listed before the learned Tribunal during 2020 and 2021. However, when the OA was listed before the learned Tribunal on 19.04.2022, about which date none of the parties was informed, the matter was taken up for disposal and consequently the impugned order came to be passed. By drawing our attention to paragraphs 4 & 5 of the impugned order,



she contends that in fact even the respondent's main counsel was not present on the date, the learned Tribunal proceeded to dismiss the O.A. on the basis of the pleadings itself. She submits that the petitioner has a good prima facie case and prays that he be granted at least one opportunity to make oral submissions in support of his O.A.

3. Issue notice. Learned counsel for the respondents accepts notice and denies that the matter was disposed of without hearing learned counsel for the parties.
4. However, having perused paragraph nos. 4 & 5 of the impugned order which are being reproduced hereunder, we find merit in the petitioner's plea that the O.A. was decided without any of the parties having made any oral submissions:

“4. The respondents filed a detailed counter affidavit opposing the OA. It is stated that with the approval of the Hon'ble Minister of Communication and Information Technology, the applicant, who was a Scientist 'D', was assigned the duties of the post of Registrar, SICLDR vide order dated 19.03.2012. It is contended that the applicant had not been assigned the duties of the said post on additional charge basis. It is also submitted that the representations submitted by the applicant were examined as and when received. It is submitted that the since the post of Registrar, SICLDR was not in existence till 26.05.2013, consideration for grant of additional



remuneration for the period starting from 19.03.2012 till 26.05.2023 to the applicant was not felt justified. It is also contended that vide note dated 23.01.2015, the DoP&T was requested to advise as to whether the applicant could be granted additional remuneration under the provisions of FR -49 or any kind of special pay under any other provision covered under Government of India Rules for the period starting from 27.05.2013 (date of creation of the post of Registrar) till 16.06.2014 (the date upto when the applicant discharged the duties of the post of Registrar, SICLDR). The DoP&T vide Note dated 15.04.2015 clarified that in terms of OM dated 28.01.2000, the additional pay for holding additional charge in PSUs/ Autonomous Bodies/Registered Societies etc. is not permissible under FR 49 and no additional remuneration can be allowed for the same.

5. There is no representation for the applicant. However, Mr. S. K. Gulia proxy for Mr. R. K. Sharma, learned counsel for the respondents is present, but he did not advance any argument.”

5. In the light of this position emerging from the record, we are of the view that taking into account the nature of the grievances raised by the petitioner who is aged about 70 years, it will be in the interest of



justice that he is granted at least one opportunity to make his submissions before the learned Tribunal.

6. The impugned order is, accordingly, set aside and the matter is remanded back to the learned Tribunal for fresh adjudication on merits. Needless to state, while hearing the matter afresh, the learned Tribunal will not be influenced by its finding(s) arrived at in the impugned order. It is, however, made clear that the impugned order is being set aside only on the grounds noted hereinabove and will not be construed as expression of any opinion on the merits of the rival claims of the parties.
7. List the O.A. before the learned Tribunal on 31.01.2024 for directions.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 16, 2024

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