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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 13889/2019 and CM APPL. 55714/2019

SHRI RAMESH KUMAR YADAV

.....Petitioner

Through: Mr. Pradyuman Rao, Advocate along
with Petitioner in person.

versus

DELHI AGRICULTURAL MARKETING BOARD AND ANR.

.....Respondents

Through: Mrs. Avnish Ahlawat, Standing
Counsel, DAMB with Mr. N.K. Singh, Ms.
Laavanya Kaushik, Ms. Aliza Alam, Mr. Mohnish
Sehrawat and Mr. Amitoj Chadha, Advocates for
R-1 and 2.

Mr. D. Rajeshwar Rao, Advocate also for R-2.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

21.08.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

“a) directing the Respondent No.1 to pay and release the full pension of the Petitioner under CCS (Pension) Rules @ 50% of his pay per month after the date of retirement i.e. 31.10.2015.

b) direct the Respondent No.1 to pay arrears of the pension of the Petitioner alongwith interest @ 12% p.a. from the date when it was payable and till the date the arrears of the pension are paid to the Petitioner.

c) any other or further writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case be also issued in favour of the Petitioner and against the Respondent No.1.”



2. Learned counsel for the Petitioner, on instructions from the Petitioner, submits that Petitioner will not insist on counting the service rendered with the Delhi Transport Corporation (DTC) and further submits that Petitioner has already sent intimation to this effect to the Respondent under letter dated 11.03.2016, which is Annexure 'R-II' to the counter affidavit. Relevant part of the letter is extracted hereunder:

"Please refer my earlier letter on the subject cited above vide which I have made request to consider my case for fully pensionary benefits by depositing the due amount with interest by me. In this connection today (11.3.16) AAO, DAMB told me that they have calculated the due amount which is to be deposited by me which comes to Rs. 28,92,798/-.

Now I requested that I want to withdraw my earlier request as I am unable to deposit such a huge amount at this stage. It is, therefore, requested that my pension case may please be settled at the earliest as per rule according to my service in DAMB and oblige."

3. Learned counsel, on instructions, further submits that as far as his pension with the EPF is concerned, he has not claimed the pension from EPF from January, 2018 and no life certificate has been submitted thereafter. Petitioner will not claim any pension payable from EPF but insists that the Respondent be directed to pay in accordance with Annexure 'P-2' to the writ petition.

4. Mrs. Avnish Ahlawat, learned Standing Counsel appearing on behalf of the Respondents, on the other hand, states that as far as the answering Respondent is concerned, if the service of the DTC is not to be counted, the payment cannot be made in accordance with the letter dated 07.03.2017. Petitioner will be entitled to payment on *pro-rata* basis, which is being paid @ 50% of the last pay drawn. According to the Petitioner, who is present in Court, he is currently being paid pension @ Rs.22,000/- based on the rise in the DA rates.



5. In my view, at this stage, it would be apposite to dispose of this writ petition directing the Respondents to re-look and re-examine the payment of pension to the Petitioner taking into account the above factors, i.e., Petitioner undertakes not to count the service rendered with the DTC; that he has given up his pension payable from EPF; and counting the number of years served with the answering Respondent at the last pay drawn. A reasoned and speaking order will be passed. Needless to state that the entire calculation made by the Respondents shall be made available to the Petitioner, who may take recourse to legal remedies in case of any surviving grievance. In case the pension is found to be higher than what is being paid, the differential shall be paid by the Respondents within 8 weeks from the date of the decision.

6. Writ petition stands disposed of along with the pending application.

JYOTI SINGH, J

AUGUST 21, 2024/kks/jg