



2024:DHC:8728-DB



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

+ LPA 1090/2024, CM APPLs. 65568/2024 & 65638/2024

**THE LIEUTENANT GOVERNOR OF DELHI
AND ORS**

.....Appellant

Through: Mrs. Avnish Ahlawat, SC with
Mr. Nitesh Kumar Singh, Ms. Laavanya
Kaushik, Ms. Aliza Alam and Mr. Mohnish
Sehrawat, Advs.

versus

VINAY KUMAR SIDH

.....Respondent

Through: Mr. Anuj Aggarwal, Mr.
Avinash Kumar and Ms. Kritika Matta,
Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

JUDGEMENT (ORAL)

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11.11.2024

C.HARI SHANKAR, J.

1. Janardan Sharma was a part time Vocational Teacher employed with the respondents. He was appointed on temporary basis. His services were continued from year to year till he superannuated. After his retirement, Janardan Sharma petitioned this Court by way of WP (C) 11154/2019, seeking a direction to the respondents, to implement, in his case, the Payment of Gratuity (Amendment) Act, 2009 with retrospective effect and extend the benefits of the said Act to vocational part time Teachers working with the appellants - GNCTD such as Janardan Sharma. Additionally, a prayer was included to



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release the payment of gratuity to Janardan Sharma after superannuation.

2. WP (C) 11154/2019 was disposed of, by a learned Single Judge of this Court by judgment dated 3 August 2021. Para 10 of the decision reads thus:

“10. The petition is allowed, the respondents are directed to pay gratuity to the petitioner by counting the period of service w.e.f. April 03, 1997 till March 26, 2020 with interest computed @ 6% per annum. The same shall be complied, within a period of eight weeks from today. The petition is disposed of with costs quantified as Rs.20,000/- to be paid to the petitioner within the same period.”

3. The respondent approached this Court along with certain other petitioners under Article 226 of the Constitution of India. The respondent and Janardan Sharma were, admittedly, similarly situated. The writ petition filed by the respondent was WP (C) 13010/2022.

4. All these writ petitions were collectively decided by a Coordinate Bench of this Court by order dated 17 November 2022, following the precedent in *Janardan Sharma*. Para 3 of the said decision reads thus:

“3. In the light of the aforesaid stand taken by learned counsel for the respondent, no further orders are called for in the petitions, which are, accordingly, disposed of by directing the respondent to extend the benefits of the decision in *Janardan Sharma (supra)*, to the petitioners by passing appropriate orders qua each of the petitioners on or before 15.01.2023.”

5. *This decision was never challenged by the petitioner, and attained finality.*

6. Following the aforesaid decision, the appellants released the

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gratuity due to the respondent, but did not pay any interest thereon, or costs. The respondent, therefore, moved CM APPL. 8987/2024 in WP (C) 13010/2022, praying that the appellants be directed to pay interest and costs to the respondent.

7. The said CM APPL. 8987/2024 was disposed of, by a Coordinate Bench of this Court, by order dated 16 August 2024, paras 4 to 6 of which read thus:

“4. Having considered the submissions of learned counsel for the parties and perused the order dated 17.11.2022, I find absolutely no merit in the respondents’ plea. Once it is the common case of the parties that the present writ petition was disposed of with directions to the respondents to extend the same benefits to the petitioner in the present case as were granted to the petitioner in *Janardan Sharma (supra)*, the respondents were bound to extend all the benefits extended in *Janardan Sharma (supra)*, which decision admittedly stands implemented.

5. In these circumstances, the petitioner would also be entitled to interest @6% per annum as well as costs of Rs. 20,000 as were awarded to the petitioner in *Janardan Sharma (surpa)*.

6. The application is, therefore, allowed by making it clear that the respondents are liable to pay to the petitioner, costs of Rs.20,000/- and interest @ 6 % per annum on the amount of gratuity.”

8. The petitioner thereafter filed Review Petition 348/2024, seeking a review of the aforesaid order dated 16 August 2024 of the learned Single Judge in CM APPL. 8987/2024. The said Review Petition was dismissed by order dated 25 September 2024.

9. The appellants have, therefore, approached this Court by means of the present appeal, seeking quashing of the orders dated 16 August 2024 and 25 September 2024.



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10. There is no distinction between the case of the appellants and that of Janardan Sharma. As had happened with Janardan Sharma, the respondent was also not released the gratuity which was due to him.

11. Moreover, the order dated 17 November 2022, passed in Janardan Sharma's case, was never challenged.

12. In these circumstances, there can obviously be no legitimate objection to the impugned orders dated 16 August 2024 and 25 September 2024.

13. This appeal is accordingly dismissed.

C.HARI SHANKAR, J

ANOOP KUMAR MENDIRATTA, J

NOVEMBER 11, 2024/aky

Click here to check corrigendum, if any