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

+ **W.P.(C) 9514/2007**

**U.V.UTTAMCHANDANI**

.....Petitioner

Through: Mr. V.K. Garg, Senior Advocate with  
Mr. Sagar Saxena, Mr. K.S. Rekhi and  
Mr. Parmeet Singh, Advocates.

versus

**THE CHAIRMAN OF EXECUTIVE COUNCIL & VICE  
CHANCELLOR UNIVERSITY OF DELHI & ORS.....Respondents**

Through: Mr. Anurag Mathur, Advocate.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

**25.07.2024**

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India assailing recovery order dated 22.03.2006 for a sum of Rs.3,16,910/- as also seeking pensionary benefits as due on 31.03.1998 by considering the Petitioner as deemed confirmed employee. Direction is also sought to the Respondents to consider the suspension period from 17.02.1993 to 31.03.1998 as duty period.

2. Mr. Mathur, learned counsel appearing on behalf of the Respondents, at the outset, submits that by order dated 18.01.2013, Petitioner was granted revised pay scale with consequential benefits and in furtherance thereof, two cheques in the sum of Rs.41,494/- and Rs.95,989/- were tendered to him in Court before the Division Bench on 21.01.2013 in LPA No. 595/2004 and it was agreed by the counsel for the Petitioner that Petitioner's claims for



consequential reliefs were satisfied, save and except, the suspension period. Copy of the order dated 21.01.2013 recording the accord and satisfaction is handed over and is taken on record. Mr. Mathur also argues that a reading of the order dated 18.01.2013 shows that in terms of judgment dated 03.05.2012, Petitioner was promoted as Superintending Engineer w.e.f. 15.12.1986 and since he opted for pay fixation as Superintending Engineer from the next date of increment i.e. 01.11.1987, his pay was accordingly fixed. Gratuity was also calculated and thereafter paid as per Rules with interest in addition to other benefits such as GPF etc. It is urged that only two things remained at that stage i.e. commutation of pension, for which no formal request was received at that time from the Petitioner and regularisation of the suspension period. Petitioner never challenged the order dated 18.01.2013, which has attained finality and it is thus not open to the Petitioner to contest the order at this stage. Moreover, a reading of the present petition and the relief clause shows that even in the present petition there is no challenge to the order dated 18.01.2013.

3. Mr. V.K. Garg, learned Senior Counsel appearing on behalf of the Petitioner, after canvassing some arguments, on instructions, limits his relief to Petitioner's claim for commutation of pension and for considering the suspension period from 17.02.1993 till 31.03.1998, as period spent on duty. It is further submitted that recently the Division Bench of this Court in ***U.V. Uttamchandani v. UOI and Others, 2024 SCC OnLine Del 3616*** has directed the Respondent to pay the amount towards *pro rata* pensionary benefits taking into account his service as 13 years 2 months and 15 days and therefore the Respondents herein be directed to count the service in addition to the service rendered with the Delhi University for the purpose of



computing pensionable service. In response to this, Mr. Mathur submits that the University was not a party in the said writ petition and therefore, it is not known under what circumstances the directions were passed.

4. Having heard learned Senior Counsel for the Petitioner and learned counsel for the Respondents, the present writ petition is disposed of directing the Respondents to: (a) consider the case of the Petitioner for commutation of pension; and (b) take a decision on the suspension period in accordance with applicable Rules and decide whether the period will be treated as 'on duty' or 'dies non'. The decision shall be taken within six weeks from today and a reasoned and speaking order shall be passed, which shall be communicated to the Petitioner within one week from the date of the decision and Petitioner will be at liberty to take recourse to legal remedies, in case of any surviving grievance. It is open to the Petitioner to bring to the notice of the University the judgment of the Division Bench in ***U.V. Uttamchandani (supra)*** for the purpose of computing the pensionable service and as and when such a representation is made, the same shall be considered in accordance with law.

**JYOTI SINGH, J**

**JULY 25, 2024/shivam**