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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7490/2016**
DEV RAM JHAPetitioner

Through: Mr. Avadh Bihari Kaushik, Advocate.
versus

SHRI MOTI NATH SANSKRIT MAHAVIDYALAYA
AND ORSRespondents

Through: Mr. Amit Kumar and Mrs. Khushboo
Sharma, Advocates for R-1 and R-2.

Mr. Gyan Prakash, Ms. Neeraj and Mr. Vaibhav
Raj, Advocates for R-3.

Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi,
Advocate for R-4 to R-6.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **30.09.2024**

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking a writ of mandamus to the Respondents to forthwith release his retiral benefits including pension, gratuity, provident fund with interest at the rate of 12% per annum.
2. Petitioner was appointed with Respondent No.1/Shri Moti Nath Sanskrit Mahavidyalaya as a Peon on 01.01.1972 through a regular process of selection. Respondent No.1 is run by Respondent No.2 which is a Trust and is now affiliated to Respondent No. 3, which is a deemed University recognised by University Grants Commission ('UGC'). Respondent No. 1 is an aided College and funded to the extent of 95% by Government of NCT of Delhi.
3. Petitioner states that he rendered services to the best of his sincerity and capacity and gave no cause of complaint in his entire tenure of service. However, due to personal reasons including health problems, Petitioner sought voluntary retirement under the Voluntary Retirement Scheme vide



application dated 01.12.1992 which was allowed and Petitioner was relieved on 16.07.1993, after rendering more than 20 years of service. Repeated representations for release of his retiral dues led to no fruitful results and Petitioner approached this Court for relief.

4. Stand of Respondents No. 1 and 2 is that Petitioner is guilty of having fraudulently sold away the immoveable property of the College where the College was functioning and for this reason, his retiral benefits including provident fund have been withheld. On a pointed query, however, learned counsels candidly submit that till date no civil or criminal case has been filed against the Petitioner, who sought and was granted voluntary retirement on 16.07.1993 and also admit that there is no material on record which even remotely points out that the allegation is true. Insofar as Directorate of Education ('DoE') is concerned, Mr. Yeeshu Jain, learned ASC draws the attention of the Court to paragraphs 7 and 8 of the short affidavit filed by DoE and submits that retiral benefits have not been released for want of certain documents such as salary certificates, vigilance clearance etc. and that it was the duty and responsibility of Respondent No. 1 to have forwarded the case of the Petitioner for release of his benefits along with requisite documents, which was never done.

5. Having heard learned counsels for the respective parties, in my view, this is a textbook case where an employee who retired in 1993 after rendering two decades of unblemished service has been deprived till date of his retiral benefits such as pension, gratuity and provident fund for which he worked dedicatedly and sincerely. No justifiable reason is coming forth from Respondents No. 1 and 2 for not having processed the case of the Petitioner for release of his retiral benefits, save and except, an allegation that the Petitioner sold away some property of the College. It is rather strange that if



the allegation as serious as this was true, College has till date neither filed any criminal complaint nor resorted to any civil proceeding for recovery and this itself belies the stand of the College. Silence and inaction of DoE is also not understandable. Admittedly, 95% of the aid to the College comes from the DoE and the payments have to be released by the Directorate. *Albeit* it is true that it is the College that has to forward the case of the Petitioner along with requisite documents but it cannot be glossed over that the role of DoE is not restricted to grant of aid but is also regulatory and supervisory and therefore, DoE ought to have acted and directed the College to forward the case of the Petitioner especially when the same relates to retiral benefits and two decades have gone past depriving the Petitioner of his hard earned money. At this stage, a check list of documents required to be furnished by the Petitioner/College is handed over by DoE and the list is as follows:-

Name of Pensioner		Date of Birth	Date of Appointment	Date of Retirement
FORM TO BE ATTACHED:				
Sl. No.	Form No.	Description	Book Page No.	Attached at Page No.
1.		Four Joint Passport size Photograph duly attested by the Competent Authority		
2.		Copy of latest/last Pay Fixation order as per 7 th CPC & latest		
3.		Bank Option Forms.		
4.		Declaration under C.S.R.911		
5.		Particulars of Pensioner		
6.		Declaration from the pensioner regarding non receipt of any pension or gratuity required under the note below No.911 C.S.R.		
7.	Form No.-A	See Rule 5 (Nomination of arrear of pension)		
8.	Form No.-1	Application for Without Medical Examination		
9.	Form No.-1A	Application for commutation		
10.	Form No.-1	DCRG		
11.	Form No.-3	Details of family members		
12.	Form No.-5	See Rule 7 (Nomination of Commutation)		
13.	Form No.-5	Application & Check List of Documents to be submitted alongwith Form-5		
14.		Letter to <u>Bank name and address,</u> regarding Payment of Pension under SB A/c No. _____ through your Bank.		
15.	Form No. 7	Calculation		
16.	Form No.-8	Forwarding		
17.		Last Pay Certificate at the time of retirement.		
18.		Last Ten Months Average Pay		
19.		Vigilance Clearance Certificate in case of retirement		
20.		Retirement Order.		
21.		Non availing of EOL Certificate		
22.		Not availing Govt. Accommodation Certificate		
23.		No Dues/Demand Certificate		
24.		Certificate regarding DIES NON / Break in Service		
25.		No dues of Income-Tax Certificate		
26.		Not availing LTA/STA Certificate		
27.		Undertaking for No Medical Allowance & opt DGEHS Card facility		
28.		Undertaking regarding Pension received in excess / over payment		
29.		Service Verification Chart.		
30.	Form No.-26			
31.		Specimen signature duly attested by Head of Office.		
32.		Personal identification mark.		
33.		Undertaking for Collect Pension Payment Order through DDO, School concerned.		
34.		One Cancelled Cheque		
35.		Copy of Aadhar & PAN Card of official concerned		
36.		Original Service Book of Official concerned.		Attached



6. It is agreed between the parties that the aforesaid document is a check list of documents required for processing pension cases, issued by Pay and Accounts Office of DoE. The College is accordingly directed to ensure that the aforementioned documents are furnished to DoE along with the case of the Petitioner for release of retiral/terminal benefits within a period of three weeks from today. If any of the above mentioned documents are in the custody and possession of Petitioner and are not available with the College, due intimation in that regard will be given to the Petitioner who will furnish the document to DoE. After all necessary documents have been received and formalities are completed, DoE will ensure that all retiral/terminal benefits payable to the Petitioner are released to him. The entire exercise will be completed within a period of three months from today.

7. Writ petition is disposed of in the aforesaid terms with interest @ 6% to the Petitioner from the date the retiral benefits became due till actual payments along with cost of Rs.20,000/-, in view of the settled law that an employee is entitled to interest on delayed payments of retiral benefits, where there is unjustifiable delay on part of the employer. [*Ref.: Padma Nath v. State of West Bengal and Others, 2019 SCC OnLine Cal 2185; Vijay L. Mehrotra v. State of U.P. and Others, (2001) 9 SCC 687; Dr. A. Selvaraj v. C.B.M. College and Others, (2022) 4 SCC 627; K.L. Manhas v. Union of India and Ors., 2015 SCC OnLine Del 12258 and Single Benches in R.P. Tak v. Secretary, Ministry of Heavy Industries & Public Enterprises and Anr., 2017 SCC OnLine Del 10760 and H.N. Sharma and Ors. v. Govt. of NCT of Delhi and Ors., W.P. (C) 1724/2017, decided on 21.08.2020*]. Cost and interest shall be borne by Respondents No. 1.

JYOTI SINGH, J

SEPTEMBER 30, 2024/*DU/shivam*