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

\+ W.P.(C) 4373/2025

INDIRA RANI .....Petitioner

Through: Mr. Dushyant Bhargava, Mr. Vikram Singh Nayal, Mr. Pawan Mehta and Ms. Qudaija Fatima, Advocates with petitioner in person.

versus

DVB PENSION TRUST & ANR. .....Respondents

Through: Ms. Avnish Ahlawat, SC for GNCTD with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam, Mr. Amitoj Chadha and Mr. Mohnish Sehrawat, Advocates.

Mr. Abhay Kumar, Mr. Shagun Ruhil, Mr. Karan Chopra, Advocates with Mr. Amit Singh, AGM Legal for respondent No.2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **15.05.2025**

1. The petitioner, who was appointed as a Lineman Grade- 2 Office of Addl. G.M. (T-G) in Delhi Vidyut Board ["DVB"] on 03.10.1997, was transferred to respondent No.2 - Tata Power Delhi Distribution Limited ["TPDDL"]—with effect from 2002, pursuant to the Delhi Electricity Reforms Act, 2000, and the Delhi Electricity Reform (Transfer Scheme)

Rules, 2001. She opted for Special Voluntary Retirement with effect from 31.08.2019, which was accepted.

2. By way of this writ petition, the petitioner seeks payment of pension and other retiral benefits, relying upon a Division Bench judgment of this Court dated 17.03.2016 in *Tata Power Delhi Distribution Power Limited v. Rosy Jain & Ors.* [LPA 562/2013] *and connected* [hereinafter, "*Rosy Jain*"].

3. The petitioner's claim is against respondent No.1 – DVB Pension Trust. TPDDL was impleaded as respondent No.2 by order of this Court dated 07.04.2025.

4. I have heard Mr. Dushyant Bhargava, learned counsel for the petitioner, Mrs. Avnish Ahlawat, learned Standing Counsel for respondent No. 1, and Mr. Abhay Kumar, learned counsel for respondent No.2.

5. The judgment of the Division Bench in *Rosy Jain* disposed of several appeals preferred by successor undertakings, relating to payment of terminal dues to erstwhile employees of DVB who opted for Special Voluntary Retirement after transfer to the successor undertaking. The Division Bench considered the conditions of transfer, the Special Voluntary Retirement Scheme, as well as the judgments of this Court in *North Delhi Power Ltd. v. Govt. of NCT* [142 (2007) DLT 65], and other judgments of learned Single Judges. On the question of whether the liability for terminal benefits is to be borne by the Pension Trust or the successor undertaking, the conclusions of the Division Bench were recorded as follows:

"26. The above circular also shows that the GNCTD was alive to the

fact that those opting for voluntary retirement were to be equated with those superannuating in the normal course and the Pension Trust was to entertain the claim for fixation of pension.

27. For the foregoing reasons, this Court is of opinion that the impugned judgment in Rosy Jain (supra) and the judgments in all other writ petitions that were allowed by the learned Single Judges cannot be sustained; they are set aside. ***<u>The Pension Trust shall process and disburse the payments</u>*** *– if not already made; if made by the Appellants, they would be able to claim and recover the amounts paid out by them to the Pension Trust. The latter shall reimburse the amounts within 8 weeks. The appeals are allowed in the above terms; there shall be no order on costs."*

[Emphasis supplied.]

6. The question of liability of the Pension Trust for payment of retiral dues to those who opted under the Special Voluntary Retirement is thus settled by the judgment in *Rosy Jain*.

7. *Rosy Jain* has been followed in several later judgments, including the judgment of a coordinate Bench dated 16.05.2023 in W.P.(C) 5368/2021 and connected matter [*Mukesh Rajora v. Pension Trust & Anr.*] ["*Mukesh Rajora*"]. In *Mukesh Rajora*, the Court noted as follows:

"5. Challenging the action of Pension Trust in not releasing the terminal and pensionary benefits, counsel for the Petitioners submits that the case of the Petitioners is squarely covered by the judgment of the Division Bench in Rosy Jain (supra) as well as subsequent judgments passed by this Court relying on the judgment of the Division Bench, wherein it is held that liability to release the pensionary benefits of employees seeking voluntary retirement under Rule 48A of Pension Rules would rest on the Pension Trust after their transfer from DVB on unbundling to the various DISCOMS.

6. Respondents are unable to dispute that the reliefs claimed by the Petitioners are covered on all four corners by the judgment in Rosy Jain (supra) as well as the subsequent judgments of this Court in Mrs. Asha Joshi v. GNCTD of Delhi and Ors., W.P.(C) 17416/2022 decided on 31.01.2023 and S.K. Goel v. M/s Tata Power Delhi Distribution Limited & Ors., W.P.(C) 656/2016 decided on 11.04.2023. Respondent No.2 has categorically stated in the counter affidavit that after the judgment was pronounced in Rosy Jain (supra), Respondent No.2 had written to the Pension Trust to release the pension of the Petitioners *with arrears vide letter dated 23.01.2020 and pension papers were also forwarded. Pension Trust, on the other hand, takes a position that the liability rests with the DISCOMS and the Trust is not liable to pay the retiral benefits. In view of the judgment of the Division Bench, in my view, it is no longer open to the Pension Trust to take a conflicting position. In Rosy Jain (supra), the Division Bench while referring to the observations of this Court in North Delhi Power Ltd. v. Govt. of NCT of Delhi, 2007 SCC OnLine Del 919, ('SVRS Judgment') held that the Pension Trust cannot deny its liability towards employees retiring on voluntary retirement under Rule 48-A of the Pension Rules. Significantly, no appeal was filed by the Pension Trust against the SVRS Judgment, which has thus attained finality. The Division Bench has, after an in-depth analysis of and deliberation on the issue, also observed that the Circular dated 03.11.2009 issued by the GNCTD, shows that the Delhi Government was completely alive to the fact that those opting for voluntary retirement were to be equated with those superannuating in the normal course and the Pension Trust was to entertain the claims for fixation of pension. It was thus directed that the Pension Trust shall process or disburse the payments, if not already made and in case the payments have been made by the Appellants/the DISCOMS, the latter shall be able to claim and recover the amounts paid….."*

In *Mukesh Rajora*, the writ petitions were, therefore, disposed of, with the following directions:

"7. In view of the aforesaid, this Court finds no reason to deny the reliefs sought by the Petitioners and accordingly, it is directed that Respondent No.1/Pension Trust shall release the pensions and other terminal benefits, if any, due to the Petitioners w.e.f. 01.04.2020, in consonance with the observations and directions of the Division Bench in Rosy Jain (supra), within a period of three months from today. Needless to state that if any formalities are required to be completed by the Petitioners, the same shall be communicated to them at the earliest and Petitioners shall cooperate in completing the modalities required towards release of their dues."

8. No distinction between the position of the petitioner in the present case and the employees in the aforementioned cases has been pointed out to me. Even in the reply dated 10.03.2025 to a legal notice issued on behalf of the petitioner on 21.02.2025, no such distinction has been brought out. In the said reply, as also before this Court, the only

contention is that the judgment in *Rosy Jain* has been challenged before the Supreme Court in *Delhi Vidyut Board Employees Terminal Benefit Fund 2002 v. Tata Power Delhi Distribution Limited,* [C.A. No. 3438/2018] *and connected matters*. However, Mrs. Ahlawat states that the judgment has not been stayed by the Supreme Court in the pending Civil Appeals.

9. Having regard to this position, the present writ petition is also disposed of, in terms of the judgment in *Rosy Jain.* Respondent No.1 is directed to release the pension and terminal dues to the petitioner within a period of four months from today.

PRATEEK JALAN, J

MAY 15, 2025
SS/JM/