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

+ W.P.(C) 4637/2025

SUNIL KUMAR SAXENA

.....Petitioner

versus

EXPORT INSPECTION COUNCIL AND ORS

.....Respondents

+ W.P.(C) 4644/2025

SUNIL KUMAR SAXENA

.....Petitioner

versus

EXPORT INSPECTION COUNCIL AND ORS

.....Respondents

Appearance:

Mr. Parveen Kumar, Advocate for Petitioner.

Mr. L.R. Khatana, Advocate for R-1 to 3.

Mr. Rajesh Kumar, SPC with Ms. Mishika Pandita
and Mr. Yash Narain, Advocates for UOI in Item
No.33.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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15.04.2025

CM APPL. 21437/2025 & 21483/2025 (for exemption)

Exemption allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 4637/2025 & W.P.(C) 4644/2025 & CM APPL. 21482/2025

1. Issue notice. Mr. L.R. Khatana, learned counsel, accepts notice on behalf of respondent Nos.1 to 3. Mr. Rajesh Kumar, learned Senior Panel Counsel, accepts notice on behalf of respondent No. 4 - Union of India in

W.P.(C) 4637/2025 & W.P.(C) 4644/2025

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W.P.(C) 4637/2025.

2. The petitioner was employed in the respondent No.1 – Export Inspection Council [“EIC”]. He was dismissed from service on 02.11.2015, pursuant to disciplinary proceedings under the Export Inspection Agency Employees (Classification, Control and Appeal) Rules, 1978. The petitioner’s appeal was disposed of by the Appellate Authority on 14.02.2017, modifying the punishment to one of compulsory retirement with two-thirds pension.

3. The petitioner approached this Court against the aforesaid orders by way of W.P.(C) 8335/2017, in which the learned Single Judge dismissed the writ petition by order dated 22.04.2019, but the petitioner succeeded in an appeal before the Division Bench [LPA 406/2019]. The operative portion of the judgment of the Division Bench reads as follows:

“22. It is a well settled proposition of law that a High Court can interfere with the disciplinary inquiry or order passed by the competent authority, if the inquiry itself is vitiated on account of violation of principles of natural justice or where the disciplinary authority arrives at a finding that is unsupported by evidence or records a finding which no reasonable person could have arrived at. In the present case, the findings arrived at are based upon no evidence and, therefore, the order passed by the disciplinary authority and appellate authority deserves to be set aside.

23. The learned Single Judge – while dismissing the writ petition, has also arrived at a conclusion that the order of compulsory retirement is not a punishment and principles of natural justice have no place in the context of order of compulsory retirement. It is true that the punishment of removal was moderated to that of compulsory retirement but the fact remains that the compulsory retirement was inflicted upon the charged official by way of punishment and is one of the punishments provided under the service rules. Therefore, as the present case is a case of no evidence, the order of punishment and the order passed by the disciplinary authority and appellate authority deserve to be set aside and are, accordingly, set aside.

24. While the matter was being argued, learned counsel for the



appellant, has categorically stated before this Court that the appellant is not praying for back wages nor is he claiming regular salary for the period during which he was under suspension. Accordingly, we allow the writ appeal and hold that the appellant shall be entitled to be treated in service till his actual date of superannuation and the respondent shall fix his salary notionally till the date of his actual superannuation which will consequently result in enhancement of pension and terminal dues. It is made clear that he will not be entitled to back wages and salary for the period he was under suspension and for the period he was out of job as the appellant – who was present in Court, has not pressed for the aforesaid reliefs.

25. Resultantly, the writ appeal is allowed. The order of removal dated 02.11.2015, the order dated 14.02.2017 passed by the Appellate Authority, and the judgment dated 22.04.2019 passed by the learned Single Judge in W.P.(C.) No. 8335/2017, are hereby set aside with the aforesaid observations.”

4. In W.P.(C) 4637/2025, the petitioner challenges an order of the Export Inspection Agency [“EIA”] dated 21.10.2021, by which reimbursement of medical bills of the petitioner and his wife was declined. The impugned order records that the bills pertain to treatment undertaken after the imposition of penalty, by which the petitioner was relieved from the services of EIA. It is stated that EIA has not been able to locate any rules or procedures based upon which his case could be considered, and the bills have, therefore, been returned to him without reimbursement.

5. In W.P.(C) 4644/2025, the petitioner assails an order of EIC dated 29.01.2024, by which his pension payment order has been revised in compliance of the aforesaid judgment dated 18.08.2023 in LPA 406/2019. The petitioner’s grievance is that, while revising his pension, an amount of Rs. 6,61,604/- is being adjusted on account of pension paid during the period 02.11.2015 [when he was compulsorily retired] to 01.02.2022 [when he would have attained the age of superannuation]. He



also assails a direction by which the difference in leave encashment of only 96 days has been accorded to him.

6. After hearing learned counsel for the parties, I am of the view that the impugned decisions, in both these writ petitions, require to be reconsidered in the light of the Division Bench judgment dated 18.08.2023.

7. As far as the medical reimbursement is concerned, the impugned order dated 21.10.2021 proceeds on the basis that the petitioner was out of service at the time the treatment in question was taken. The order in disciplinary proceedings having been subsequently set aside by the Division Bench, this reasoning requires a relook. According to Mr. Parveen Kumar, learned counsel for the petitioner, even during the period of compulsory retirement, the petitioner was entitled to the medical reimbursement. This aspect can also be considered by the respondents.

8. In the second impugned order, the adjustment sought to be made is towards recovery of the amount of pension that was paid to the petitioner, between the date of compulsory retirement and the date upon which he is treated to have retired, under the orders of the Division Bench. As far as this aspect is concerned, Mr. Khatana, learned counsel for EIA, states that the matter will be reconsidered both on the question of adjustment of the amounts paid to the petitioner, and the computation of leave encashment, in the light of the judgment of the Division Bench.

9. Both the writ petitions are disposed of, with the direction that the petitioner will make a comprehensive representation to the respondents on these issues within a period of two weeks from today. The respondents are directed to consider the same in accordance with law, including the



directions of the Division Bench, within a period of six weeks thereafter, and pass a reasoned order.

10. All rights and contentions of the parties, on the merits of the matter, remain reserved.

11. All pending applications are also disposed of.

PRATEEK JALAN, J

APRIL 15, 2025
SS/SD/