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

Date of decision: 30.10.2025

\+ W.P.(C) 14197/2023 & CM APPL. 56224/2023

GOVT OF NCT OF DELHI AND ORS .....Petitioners

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

versus

GURSHARAN SINGH .....Respondent

Through: Mr. Sourabh Ahuja, Mr. Keshav Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 28.03.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the *'Tribunal'*) in O.A. No. 895/2019, titled ***Gursharan Singh v. Govt. of NCT of Delhi & Ors***., whereby the O.A. filed by the respondent was allowed, with the following directions:

> *"15. In the light of what has been detailed and discussed above, the*

present OA is allowed. The pay slip of the applicant for the month of December 2012 which forms part of Annexure A-1 colly is quashed and set aside and the pay of the applicant as he enjoyed prior to this, stands restored.

16. Pursuant to these directions, the terminal dues of the applicant on his retirement, including but not restricted to pension, shall be revised and awarded in his favour.

17. Accordingly, the respondents shall release him his financial dues upon such a revision as expeditiously as possible, in no case later than a period of 90 days from the date of receipt of a certified copy of this order.

18. If the directions are complied with within this period of 90 days, the applicant shall not have claim upon interest upon the same. However, in the event of delay, the release of funds shall be accompanied with interest as applicable upon deposits in the GPF. There shall be no orders as to costs."

2. The learned counsel for the petitioners submits that the respondent was granted the benefit of the third MACP (Modified Assured Career Progression) with Grade Pay of ₹5400 *vide* order dated 10.08.2011, read with corrigendum dated 04.11.2011, with effect from 01.09.2008.However, in the pay slip of December 2012 his Grade Pay was reduced from ₹ 5400 to ₹ 4800. He submits that the respondent superannuated from service on 31.12.2012, whereafter, by an Office Memorandum dated 20.09.2013, the Department of Health and Family Welfare issued a clarification stating that Pharmacists were entitled only to the third financial upgradation under MACP in the Grade Pay of ₹4800, and not ₹5400. The pay of the respondent

was re-fixed, resulting in reduction of his pay, and a recovery of ₹2,35,228/- was effected from his retiral benefits by withholding the said amount.

3. Challenging this recovery, the respondent filed an O.A., bearing O.A. No. 4517/2017, before the learned Tribunal, praying for the following relief:

> *"8.1. (a) Declare that the impugned action of the respondents qua the Applicant illegal and arbitrary, whereby, they have withheld/recovered an amount of Rs. 2,35,228/- (Rupees Two Lacs thirty five Thousand two Hundred and twenty eight only) from the gratuity of the Applicant (Group 'C' employee) on the date of his retirement/superannuation. And*
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> *b. Direct the respondents to revisit/rectify their order dated 31/12/2012 to limited extent and refund an amount of Rs. 2,35,228/- (Rupees Two Lacs thirty five Thousand two Hundred and twenty eight only) along with interest @ 18% per annum along with all the consequential benefits (i.e. re-fixation of pay/pension, grant of arrears etc.). And*
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> *c. Call for the records. And*
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> *d. Award cost in favour of the Applicant and against the respondents. And/or*
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> *e. Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case."*

4. The learned Tribunal, by its Order dated 27.08.2018, allowed the said O.A. and directed the petitioners to refund the withheld amount of ₹2,35,228/- to the respondent, however without interest.

5. Subsequently, in the year 2019, the respondent filed another O.A., being O.A. No. 895/2019, now challenging the revision of his pay itself and seeking the following reliefs:

> *"a. Declare that the impugned action of the respondents qua the Applicant illegal and arbitrary, whereby, they have reduced the pay of the Applicant without following the Principles of Natural Justice. And*
> *b. Direct the respondents to re-fix the pay/ pension of the Applicant in the grade pay of Rs. 5400/- w.e.f. 31.12.2012 and accord all the consequential benefits arising there from viz., arrears of pension and pay along with interest @18% per annum on above noted arrears etc,. And*
> *c Call for the records. And*
> *d. Award cost in favour of the Applicant and against the respondents. And/ or*
> *e. Pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case."*

6. The learned Tribunal, in its Impugned Order, has allowed the said O.A., primarily on the ground that the revision of the respondent's pay was effected without issuance of any show cause notice or affording an opportunity of hearing.

7. The learned counsel for the petitioners submits that the learned Tribunal failed to consider whether the said O.A. was maintainable, given that the earlier O.A. filed by the respondent was only for the refund of the amount that was withheld by the petitioners, and did not challenge the revision of pay. He submits that the subsequent O.A. was also barred by limitation.

8. He further submits that the learned Tribunal failed to consider several other Orders and precedents relied upon by the petitioners, including the learned Tribunal's own earlier decisions, wherein the re-fixation of pay of Pharmacist in the Grade Pay of ₹4800/- was upheld.

9. On the other hand, the learned counsel for the respondent supports the Impugned Order by contending that the revision of pay by the petitioners was carried out without issuing any show cause notice to the respondent or affording him any opportunity of hearing.

10. He further submits that in the first O.A. filed by the respondent, that is, O.A. No. 4517/2017, leave had been sought to challenge the revision of pay by way of a separate O.A.

11. He contends that since the revision of pay constitutes a continuing cause of action, the O.A. filed by the respondent would be within the period of limitation. In support, he places reliance on the Judgments of the Supreme Court in ***M.R. Gupta v. Union of India,*** (1995) 5 SCC 628; ***Union of India & Ors. v. Tarsem Singh,*** (2008) 8 SCC 648; and ***State of M.P. v. Yogendra Shrivastava,*** (2010) 12 SCC 538.

12. He further submits that the pay of retirees who had superannuated prior to the clarification issued *vide* O.M. dated 20.09.2013, was not revised, and they continue to draw the Grade Pay of ₹5400/-. It is contended that the Orders of the learned Tribunal relied upon by the petitioners pertain to officers who retired after the issuance of the clarification dated 20.09.2013, and are therefore not applicable to the facts of the present case.

13. We have considered the submissions made by the learned

counsel for the parties.

14. Admittedly, the respondent, in the first O.A. filed by the respondent, that is, O.A. No. 4517/2017, had not challenged the revision of pay made by the petitioners in the year 2013. The effect of this omission has not been considered by the learned Tribunal in its Impugned Order. Similarly, the fact that the O.A. resulting in the Impugned Order, had been filed only in the year 2019, that is, six years after the revision of pay, has also not been considered by the learned Tribunal. The learned Tribunal has also not considered the various Orders passed by it in other proceedings, attention to which was drawn by the learned counsels for the parties during the course of their submissions before us. Needless to state, , unless it is shown that those Orders were not applicable to the given facts, applying the principles of precedents, there has to be a consistency in the Orders passed by the learned Tribunal.

15. Given the above circumstances, we set aside the Impugned Order passed by the learned Tribunal and remand the O.A. back to the learned Tribunal for a fresh consideration, including on the above issues that have been highlighted by us. We, however, clarify that we have not expressed any final opinion on any of the above issues, as it is for the learned Tribunal to first consider the same in accordance with law.

16. Accordingly, the parties shall appear before the learned Tribunal on 18.11.2025.

17. As the O.A. was of the year 2019 and relates to the respondent who has superannuated and is a senior citizen, we request the learned

Tribunal to expedite the hearing of the O.A. and decide the same, preferably within a period of three months from the first date of listing before it.

18. The petition along with the pending application, is disposed of in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

OCTOBER 30, 2025/*prg/RM/ik*