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

\+ CONT.CAS(C) 841/2022

MAHAVEER KHARIWAL .....Petitioner

Through: Mr. Sanjeev Kumar, Mr. H. K. Naik, Mr. Ajit Singh, Mr. Rajnish, Advocates.

versus

INDIAN BANK & ANR. .....Respondents

Through: Mr. Arun Sanwal, Advocate.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **20.03.2026**

1. The present petition alleges wilful disobedience of the directions contained in the judgment / order 02.02.2009 passed in LPA No.246 of 2007. The operative directions therein are as under:-

> *"11. For the above reasons, it is not possible to sustain the order of learned single Judge. The impugned order is hereby set aside and appeal is allowed. Letter dated 21st January, 2004 is quashed. The bank is directed to release retiral dues of the appellant in accordance with the Pension Regulations, 1995 with simple interest of 9% per annum from the date of filing of writ petition within a period of 4 weeks from today."*

2. It transpires that the said order was appealed before the Supreme Court, which eventually came to be dismissed *vide* judgment dated 22.01.2021. The operative directions therein are as under:-

> *"12. Now so far as the submission on behalf of the employer that the acceptance or non-acceptance of the voluntary retirement application is required to be taken before the expiry of the period specified in the notice, i.e., in the present case three months and the same was taken on the last date of the three months' period and date of receipt of the decision/communication is not material, it is true that in the present case the decision was taken before the expiry of the period specified in the notice, i.e., on or before three months (last day of the third month),*

however, as observed hereinabove, the rejection of the application for voluntary retirement itself is found to be illegal and bad in law. Therefore, the aforesaid shall not affect the ultimate conclusion reached by the Division Bench of the High Court. As observed hereinabove, communication dated 20.04.2004 rejecting the voluntary retirement application was bad in law and contrary to Regulation 29. Therefore, the employee shall be entitled to all retiral benefits on the basis of his voluntary retirement. Once, it is held that he is voluntary retired as per his application dated 21.01.2004 and the rejection of the application of voluntary retirement is held to be bad in law, all other subsequent proceedings of departmental enquiry will be null and void and shall be non est, as after the voluntary retirement, there shall not be an employer-employee relationship.

13. In view of the above and for the reasons stated above, the appeal fails and the same deserves to be dismissed and is accordingly dismissed. However, there shall be no order as to costs."

3. It transpires that after the judgment dated 22.01.2021 was passed by the Supreme Court, the payment of the petitioner's retiral dues was made by the respondent. However, interest as contemplated in Paragraph 11 of the judgment / order dated 02.02.2009 was only confined till March, 2010.

4. The ostensible basis thereof was that *vide* order dated 22.03.2010, the Supreme Court directed as under:-

"Leave granted. Hearing expedited.
Printing dispensed with. The appeal shall be heard on the SLP paper books. Additional documents, if any, may be filed by the parties.
Ad interim order dated 29th September, 2009 is made absolute till the disposal of the appeal.
Mr. P.S. Patwalia, learned senior counsel appearing for the Bank states that as and when the respondent applies for release of his retiral benefits, the same shall be computed and paid expeditiously."

5. It is case of the respondent that the interest has been confined only up to March, 2010, since the petitioner did not exercise the option of approaching the bank for release of the retiral benefits.

6. Learned counsel for the petitioner submits that the bank's offer to disburse his retiral benefits is not in consonance with the directions

contained in the judgment / order dated 02.02.2009 passed by this Court in LPA No. 246 of 2007. The bank sought to treat the petitioner as having been compulsorily retired and sought to work out the dues of the petitioner accordingly. In this regard, reference is made to the communication dated 25.06.2010 addressed by the bank to the petitioner. The same reads as under:-

25.06.2010

Sri Mahaveer khariwal,

C/O B.C.Tatia. REGISTERED POST WITH ACK . DUE

Opposite Jain Speech Hall,

Singhpole,

Jodhpur

Dear sir,

Sub: Settlement of Terminal benefits as per order of Supreme court is SLP No. 12655/2009

Please refer your letter dated 19.04.2010 seeking settlement of your terminal benefits as per the supreme court order dated.23.03.2010 in SLP No.12655/2009.

In order to comply with the court's direction, we reiterate the following .

1. Please note that we have already settled your eligible PF and Gratuity during the year 2007 which was not claimed

by you therefore. You are now advised to call on the Defence colony branch to claim payment of PF and Gratuity by duly discharging on the respective receipts.

2. Please note that after deducting the dues to the Bank, If any including the Bond amount of Rs. 6 lacs, you will be paid the balance amount.

3. We once again reiterate that the bank had reimbursed the eligible educational fees as per the norms.

4. For your CRS Pension we enclose forms to be filled in and please note to forward the same through Defence colony branch to our office for sanction of pension by the competent Authority.

Yours faithfully

Sd/-

CHIEF MANAGER (HRM)

7. There is *prima facie* merit in the contention of the petitioner that the bank's offer to the petitioner in 2010 for payment of dues, was premised on the basis that the petitioner was compulsorily retired. This was at variance with the directions contained in the judgment / order dated 02.02.2009 in LPA No. 246 of 2007.

8. Also, there is merit in the contention of the petitioner that in terms of the aforesaid judgment dated 02.02.2009, it is incumbent on the respondent to pay interest to the petitioner till the date on which the retiral benefits were actually released to the petitioner.

9. As such, it is evident that confining the entitlement of interest only up to March, 2010 was not in line with the directions contained in the judgment dated 02.02.2009 passed by the Division Bench of this Court in LPA No. 246 of 2007 and judgment dated 22.01.2021 passed by the Supreme Court in Civil Appeal No. 2760/2010.

10. In the circumstances, the respondent is directed to re-work the amount of interest payable to the petitioner and calculate the same on the basis that the petitioner is entitled to interest till the date of the actual release of the retiral benefits.

11. Let the same be worked out and be paid to the petitioner within a period of six weeks from today.

12. Let the calculation thereof be also placed on record and also supplied to the petitioner.

13. The respondent shall also pay the petitioner any amount due under the head 'Leave Encashment', as per the applicable Rules.

14. The petition is disposed of in the above terms.

15. List for reporting compliance on 08.07.2026.

SACHIN DATTA, J

MARCH 20, 2026/r