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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2611/92

Date of decision:15.7.93

Shri Nirmaljeet Singh ... Petitioner
vs.

Lt.Governor.
Union Territory of Delhi
Delhi & ors. ... Respondents

For the Petitioner ...Sh.N.B.Sinha,Counsel.

For the Respondents .. Shri Surinder Adalakra,
Counsel.

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL. MEMBER (A)

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice S.K.
Dhaon. Vice Chairman)

In main, the reliefs claimed in
this OA are these:

(i) the respondents may be directed to release the Efficiency Bar of petitioner and grant him all the consequential benefits of pay fixation and payment of arrears, salary etc.

(ii) the respondents may be directed to pay to the petitioner interest at the rate of 18% p.a. on the delayed payment of Pensionary benefits, arrears of salary etc. till the actual payment.

2. A counter affidavit has been filed on behalf of the Respondents. In it, the material averments are these. An FIR No.942/84 alleging therein that the petitioner along with others had committed an offence under Section 436/417 read with Section 34 of the Indian Penal Code

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had been lodged. On 21.3.85, he was suspended from service. After the investigation, the prosecution of the petitioner was launched and on 26.11.88, he was acquitted. He was reinstated in service on 5.4.1989. Crossing of Efficiency Bar of the petitioner was due on 1.1.88. His case for crossing^{of} the Efficiency Bar could not be considered by the Departmental Promotion Committee on account of his suspension from service and also on account of the pendency of the aforesaid criminal case. After his reinstatement on 5.4.89, his papers regarding the crossing of the Efficiency Bar were sent by the respondents to the Departmental Promotion Committee and the Departmental Promotion Committee cleared the case of the petitioner on 4.11.92. Thereafter, the requisite orders were passed by the respondents on 2.12.92. The proper pension papers were submitted by the petitioner vide his application dated 25.6.92. The same were processed and forwarded to the P.A.O.V on 6.7.92. Payment of all the dues was made to the petitioner in October, 1992.

3. No rejoinder affidavit has been filed. In the absence of the rejoinder affidavit, we have no option but to accept the averments made in the counter affidavit as correct.

4. The only question now remains to be determined is whether the petitioner is entitled to claim any interest from the respondents. We have already indicated that it is the respondents' case in the counter-affidavit that the petitioner's case for crossing the Efficiency Bar was considered and the Departmental Promotion Committee took a decision

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in favour of the petitioner and that decision had been given effect to. We have already stated that the respondents' case is that the petitioner for the first time on 25.6.92 submitted his papers for pensionary benefits. The respondents have also come out clearly that after the order of reinstatement of the petitioner, his case was sent to the Departmental Promotion Committee for considering the question of crossing of the Efficiency Bar. We do not find any inordinate delay on the part of the respondents on the question of allowing the petitioner to cross the Efficiency Bar after the papers were sent to the the Departmental Promotion Committee. It is true that the petitioner had not been paid his dues soon after his retirement which took place on 31.8.91. However, the facts of this case speak for themselves. The petitioner had to suffer because he was involved in a criminal case.

5. Reliance is placed by the learned counsel for the petitioner on a decision of the Supreme Court in the case of **STATE OF KERALA VS.M. PADMANABHAN NAIR (AIR 1984 SC 356)**. The ratio of the case is that where culpable delay is caused on the part of the respondents in making the payment of pensionary benefits, the Government servant should be compensated by adequate interest. In the facts and circumstances of the present case, we are unable to record any finding that the respondents can be really be held guilty of causing any culpable delay. No case is, therefore, made out for grant of any relief to the petitioner.

6. Learned counsel for the petitioner has

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urged that some payments are still to be made to the petitioner towards leave salary. The learned counsel for the respondents ensures that if any amount is payable on that account, the payment shall be made to the petitioner within a period of one month from today.

7. The OA is dismissed. The parties to bear their own costs.

B.N. Dhoundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

S.K. Dhaon
(S.K.DHAON)
VICE CHAIRMAN(J)

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