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

+ **CONT.CAS(C) 1636/2024**

NARESH KUMAR GUPTA

.....Petitioner

Through: Mr. Manish Tandon, Mr. Lal Shanker,
Advs.

versus

ASHWANI KUMAR

.....Respondent

Through: Mr. Sarfaraz Khan, Mirza Amir Baig,
Mr. Abdul Wahid, Adv.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

21.05.2025

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1. Pursuant to the previous order, the Court has heard the parties on the claim of Subsistence Allowance. Counsel for petitioner points out to the impugned order dated 18th March 2019 passed in **W.P.(C) 2383/2019**, where the following orders were passed:

“CM APPLN. 12615/2019

Vide the present application, the applicant seeks direction thereby to suspend the order dated 24.12.2010 whereby the petitioner has been suspended from the service.

It is not in dispute that against the petitioner chargesheet has been issued and the petitioner is going to retire on 31.03.2019.

Learned counsel for the respondents who appear on advance notice submits that the petitioner shall get 100 per cent subsistence allowance till his retirement as per Shastri Award.

Keeping in view the fact that petitioner is going to retire on 31.03.2019 and face the disciplinary proceedings for which



chargesheet has already been issued to him, I find no merit in the present application.

The same is dismissed.”

2. The background facts and circumstances are that the petitioner is a senior citizen and was an employee of UCO Bank and served for 29 years.
3. He claims that he had a clean and unblemished track record. The petitioner was suspended from service on 24th December 2010 and disciplinary proceedings were initiated against him. The petitioner was also implicated in a criminal case by the respondent/Bank.
4. Counsel for respondent, at this stage, states that the allegation against him was for defalcation of Rs.31 Lacs (approx.) of cash, since he was serving at the cash counter.
5. However, the petitioner was acquitted of the criminal charges by order dated 3rd December 2018. Subsequently, the chargesheet for the inquiry was submitted by the respondent on 1st March 2019 and the inquiry commenced thereafter.
6. The issue in question is the commitment made by the respondent/Bank, to the Court, on 18th March 2019, that the petitioner should get 100% Subsistence Allowance, during the retirement.
7. The date of suspension was 24th December 2010 and the date of appointment was 30th March 2019. While the petitioner has got Subsistence Allowance at 50%, the balance 50% has not been paid.
8. The respondent/Bank's position in this regard is based upon the clauses of the Bipartite Settlement which are as under:



Where the enquiry is departmental, an Award staff is entitled to receive subsistence allowance at the following rates during the period of suspension:

- 1. For the first three months, 1/3rd of the pay and allowances which the Workman would have got but for the suspension.*
- 2. Thereafter, 1/2 of the pay and allowances.*
- 3. Provided that after one year, subsistence allowance is payable at the rate of full pay and allowances, if the enquiry is not delayed for reasons attributable to the concerned Workman or his defense Representative.*

9. It is stated by the counsel for respondent/Bank that the inquiry could not be commenced since as per regulations, if the criminal proceeding is going on, they could not have initiated the inquiry.

10. Counsel for petitioner, however, points out that it was not their fault that the inquiry was delayed and, therefore, clause 3 of the Bipartite Settlement would entitle them for 100% of Subsistence Allowance.

11. Having heard the parties and upon perusal of the pleadings and documents, the Court is of the opinion that the petitioner's case for payment, of 100% subsistence allowance, as per *clause 3* of the Bipartite Settlement, is correct.

12. It cannot be stated that the commencement of criminal proceedings, and time taken for the Trial to conclude, which is about eight years, is in the control of the petitioner, and therefore, will be "*attributable*" to the



concerned workman.

13. In fact, *clause 3* uses the language “*if the inquiry is not delayed for reason that attributable to the concerned workmen or its defence representative*”, clearly implying, that this covers situations where inquiry proceedings had commenced and have been delayed in their progress due to the fault of the workmen or of their defence representative.

14. It will not cover the situation where inquiry itself is commenced after 8-9 years, as in this case, and therefore, the petitioner stands deprived of the 50% of the subsistence allowance.

15. Moreover, the petitioner was also acquitted in this matter and in the criminal proceedings, and therefore, had a legitimate grievance in this regard.

16. Accordingly, in the opinion of this Court, the respondent ought to give the balance subsistence allowance in terms of the commitment in order dated 18th March 2019.

17. Counsel for the respondent shall take instructions in this regard.

18. Accordingly, it is directed that the same will be given to him within the next 8 weeks.

19. List for ‘*compliance*’ on 16th October 2025.

20. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 21, 2025/ak/kp