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

+ W.P.(C) 5406/2017 & C.M. Nos.22776/2017, 22777/2017,
15456/2018

DELHI TRANSPORT CORPORATION

.... Petitioner

Through: Ms.Avnish Ahlawat, Standing
counsel with Mr.Nitesh Kumar Singh
& Ms.Ankita Ahuja, Advs.

versus

RAM KISHAN SHARMA

..... Respondent

Through: Mr.Mohammad Sajid, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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24.04.2019

We have heard the submissions of the learned counsel for the parties at some length. According to the petitioner, though the respondent was a pension optee at the initial stage, he took voluntary retirement under the VRS Scheme, and at that stage, he had opted out of the pension scheme. Consequently the entire CPF contribution, i.e, the employer's share as well as the employee share, was released to him at his specific request. In this regard, reference is drawn to the respondent's letter dated 06.10.2005, wherein he had stated that on account of the inordinate delay being caused in the disbursement of pension, he had requested the Deputy CGM (Pension) for release of



the employer's share of the provident fund with a clear stipulation that as and when the disbursement of pension would start, he would refund the said amount with interest and pension would be granted to him on the same footing as to the pension optee employees who retired prior to 27.11.1992. The said letter further states that the respondent had withdrawn the employer's share of the provident fund. The petitioner has also placed before this Court a document dated 23.07.1998 on the subject release of CPF which refers to the CPF amount (own share/both share) in respect of the respondent. Counsel for the respondent states that this document was not placed before the Tribunal and has been placed before this Court for the first time and he, therefore, urges that no reliance ought to be placed on the same. He further states that the respondent has till date not received the employer's contribution towards the provident fund. Thus, despite the aforesaid communication dated 06.10.2005, the respondent states that he has not received the entire provident fund amount, i.e., the share of the employer as well as the employee.

It emerges that in case the entire provident fund amount has already been released to the respondent, he would not be entitled to pension as the matter would be squarely covered by the decision of the Division Bench of this Court in ***DTC vs. Madhu Bhushan Anand***, W.P. (C) No.14027/2009 and other connected writ petitions decided on 10.08.2010 which decision was affirmed by the Full Bench in ***R.D. Gupta & Ors. vs. DTC & Anr.***, LPA No.708/2002, decided on 20.09.2011. We, therefore, direct the legal representatives of the deceased respondent to file an affidavit in the first instance,



categorically stating whether or not he had received the entire contribution (including the employer's contribution) towards the provident fund or not. The affidavit be filed within two weeks. In case the said affidavit is filed, the petitioner shall also file an affidavit disclosing whether, or not, the employer's contribution towards the provident fund had been paid to the respondent. The same shall be duly supported with documents.

List for further consideration on 23.05.2019.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 24, 2019
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