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IN THE HIGH COURT OF DELHI AT NEW DELHI
CIVIL WRIT JURISDICTION

W.P. (CIVIL) No. of 2020

In the matter of A Public Interest Litigation:

1. N. Pradeep Sharma Petitioner

VERSUS

1. Ministry of Finance,
 Union of India and Anr. Respondents

SYNOPSIS:

*Dearness allowance is received by government employees and pensioners to compensate for the rising inflation. By way of present Public Interest Litigation, the Petitioner is trying to draw the attention of this Hon'ble Court towards freezing of Dearness Allowance of the Govt. employees by the Ministry of Finance, Government of India and Ministry of Finance, Government of National Capital Territory of Delhi, despite of the fact that there is rising inflation and especially Delhi native have recently witnessed the hike in liquor, petrol and diesel prices and other essential commodities, which has a direct impact on common man, specially the Govt. servants and pensioners. The announcement of Govt. to freeze the Dearness Allowance against rising inflation without any financial emergency seems to be the **violation of provisions of Article 360 of Constitution of India.***

Even otherwise, the freezing of Dearness Allowances of all or any class of persons serving in connection with the affairs of a State, is in violation of the basic Principle of Article 21 of Constitution of India. *The Article 21 of the Constitution has a much wider meaning which includes the right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc.*

Right to life is fundamental to our very existence and includes all those aspects of life which go on to make a man's life meaningful, complete and worth

living. It is further stated that **right to receive salary is a property coming within the purview of Article 300A of the Constitution of India and the same can be deprived only by authority of law, the law means an Act of Parliament or an Act of Legislature, or at least a Rule having a statutory character.** That even otherwise, the **Disaster Management Act 2005 does not confer any power upon the Government to defer or deny salary at any time during a disaster.** It is a settled preposition that deferment of salary even for a day, amounts to denial and that the right to receive salary cannot be left to an uncertain date or an uncertain event at the whims and fancies of the Government.

Payment of salary and wages, to an employee is certainly not a matter of bounty. It is a right vested in every individual to receive it. It is also a statutory right as it flows from the Service Rules. **Right to receive salary with perks, every month, is part of the service conditions emanating from Article 309 of Constitution of India.**

It has come to the knowledge of the Petitioner by way of the office memorandum issued by Govt. of India and various e-news papers, Social media and TV news etc., regarding the hardship being faced by the various employees of Govt. of India or govt. of GNCTD that the enhanced Dearness allowance of 4% which was supposed to be given by various Govt. to its employees and its pensioners has been deferred till July 2021. The Finance Ministry decided to put on hold increment in dearness allowance (DA) for 50 lakh Central Government employees and 61 lakh pensioners till July 2021 due to the COVID-19 crisis. The Govt. of NCT of Delhi also followed the Centre order on DA and DR.

In order to meet out the present financial crisis if any, the reserve amount (Corpus) of approximately Rs. 3800 crore from PM National Relief Fund may be utilized. The overall corpus of PMNRF since it was established in 1948, stands at

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Rs. 3800 crore may be utilized. Likewise if the news are to be believed barely a week after the PM announced setting up of PM CARES (Prime Minister's Citizen Assistance & Relief in Emergency Situations) fund on 28th March 2020, donations pledged to it have crossed over Rs.6500 crore.

Suffice it to add here that notification dated 23.04.2020 and 24.04.2020 by Union of India and Govt. of NCT of Delhi, is abused of the powers granted to central Government under section 62 of Disaster Management Act and is in express violation of procedure prescribed under Article 360 of Constitution of India.

Keeping in view the Dearness Allowance be released immediately to the employees and its pensioners. The released Dearness Allowance would even give morale boost to even the Health Warriors who are protecting us from deadly disease.

Petitioner

with

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Place: Delhi