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

Date of hearing and order: February 25, 2015.

+ W.P.(C) 1827/2015
UNION OF INDIA AND ANR.

..... Petitioner

Through: Mr. Ashok Singh, Advocate

versus

DAYA NAND

..... Respondent

Through

CORAM:
HON'BLE MR. JUSTICE KAILASH GAMBHIR
HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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KAILASH GAMBHIR, J. (ORAL)

C.M. Appl. No. 3269/2015 (Exemption)

Exemption allowed subject to just exceptions.

Application stands disposed of.

W.P. (C) No. 1827/2015 & C.M. Appl. No. 3270/2015 (Stay)

By this petition filed under Article 226 of the Constitution of India, petitioner seeks to challenge the order dated 23.07.2014 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 3694/2013, whereby the learned Tribunal gave a the direction to the petitioners herein to consider the case of the respondent for granting first

financial Upgradation under the ACP scheme in the pay scale of Rs.4500-7000 and second financial Upgradation under the said Scheme in the scale of Rs.5000-8000 at par with the similarly situated persons by treating the respondent as absorbed after having medically de-categorised in the grade of Rs.3050-4590 from the due date with all consequential benefits. The petitioners, who were the respondents before learned Tribunal, were also directed to comply with the aforesaid directions within a period of two months from the date of the impugned order.

We have heard the learned counsel for the petitioner and also gone through the impugned order and the material placed on record.

For better appreciation, the operative part of the impugned order passed by the learned Tribunal is reproduced hereunder:

“We have heard the learned counsel for the applicant Shri Yogesh Sharam and learned counsel for the respondents Shri S.M.Arif. In our considered view, the impugned speaking order dated 25.07.2012 passed by the respondents in compliance of earlier order of this tribunal dated 25.04.2012 in OA no.2571/2011, is quite arbitrary. It is seen that the railway in its various letters has clearly advised the general manager, northern railway that the rpf constable who were absorbed as junior clerk in the pre-revised scale of Rs. 2750-4400 are eligible for financial Upgradation to the next higher grade of Rs.4500-7000 as their basic scale has been revised to Rs.3050-4590. Therefore, we do not find any reason as to why the respondent-railways are not

implementing the aforesaid directions. The divisional railway manager, northern railway has deviated from the subject and rejected the case of the applicant on irrelevant considerations. In view of the above position, we allow this OA and quash and set aside the impugned order dated 25.07.2012. Further, we direct the respondents to extend the benefits of the railway board circular dated 31.05.2000 referred to in the impugned speaking order dated 25.07.2012. We also direct the respondents to consider the case of the applicant for granting the first financial upgradation under the ACP scheme in the scale of Rs. 4500-7000 and second financial upgradation under the said scheme in the scale of Rs.5000-8000 at par with the similarly situated persons by treating him as absorbed after having medically de-categorized in the scale of Rs.3050-4590 from due date with all consequential benefits. The respondents shall comply with the aforesaid directions within a period of two months from the date of receipt of a copy of this order. There shall be no order as to cost.”

In the original application filed by the respondent, he has clearly mentioned that after necessary clarification was given by the General Manager to resolve the anomalous situation, the Northern Railway Board, Baroda House vide order dated 4.6.2003 granted the first financial Upgradation under the ACP Scheme on completion of 12 years of service to those persons who were absorbed in the alternative posts in the grade of Rs.2700-4400 by the petitioners in the pay scale of Rs.4500-7000 from the date of completion of 12 years of service. The respondent also referred the identical case of one Des Raj Singh, who was granted the first financial

Upgradation under the ACP Scheme in the pay scale of Rs.4500-7000. The learned Tribunal in the impugned order has also observed that considering the case of the respondent be considered for granting the first and second financial Upgradation under the ACP Scheme at par with the similarly situated persons by treating him as absorbed after having medically de-categorised in the scale of Rs.3050-4590 from the due date.

In view of the aforesaid discussion, we find no tangible reason to interfere with the impugned order passed by the learned Tribunal. There is no infirmity or perversity in the order passed by the learned Tribunal. Finding no merit in the present petition filed by the petitioners, the same is hereby dismissed with no orders as to costs. Resultantly, the petitioners are directed to comply with the directions given by the learned Tribunal within a period of two months from the date of this order.

With aforesaid observation, the present petition stands disposed of.

KAILASH GAMBHIR, J

I.S. MEHTA, J

FEBRUARY 25, 2015

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