

\$~7

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

+ W.P.(C) 8943/2014 & CM No.20454/2014

UNION OF INDIA & ORS

..... Petitioners

Through: Mr. Nasir Ahmed, Mohd Muzahir
Hussain & Mr. Zakir Hussain,
Advocates.

versus

VED PRAKASH GUPTA

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

%

11.11.2016

During the course of hearing, it is accepted that the Union of India has accepted and implemented the impugned order passed by the tribunal in view of decision of the Supreme Court dated 25.02.2004 passed in Civil Appeal Nos.10883-10892 of 1996, Union of India & Ors. vs. Nek Ram & Ors. As per the decision of the Supreme Court, the respondent, who was erstwhile employee of Beas Construction Board and was declared surplus and redeployed in Central Government, was entitled to emoluments on the pay scales applicable to Beas Construction Board.

The respondent has been accordingly paid Rs.1,09,105/-.

The respondent who appears in person accepts the aforesaid

position.

The respondent however pleads that he would be entitled to benefit of second financial upgradation under the Assured Career Progression Scheme. As per the petitioner, the respondent was entitled to one financial upgradation under the Assured Career Progression Scheme which has been granted. They dispute grant of second financial upgradation.

The aforesaid dispute regarding grant of financial upgradation under the Assured Career Progression Scheme was not the subject matter of the impugned decision and not an issue or claim raised before the tribunal.

The respondent states that he would file an O.A. making the claim. In case, the said OA is filed within one month, the same would not be dismissed on the ground of limitation, if it is otherwise within limitation on excluding the time when this writ petition was pending. Of course, the question whether the respondent is entitled to benefit of the second financial upgradation under the Assured Career Progression Scheme, if so, from which date the respondent would be entitled to said benefit, and whether even otherwise the claim would be barred by limitation will be aspects, which the tribunal will have to examine and consider. We do not express any opinion on the said aspects. We have given the concession to the respondent for the reason that the present writ petition has remained pending since 2014 and affidavits and other details on the claim for second financial upgradation have been raised in the pleadings. The respondent appears in person.

Recording the aforesaid observations and directions, the writ petition is disposed of.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

NOVEMBER 11, 2016
SSC