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

+ **W.P.(C) 1636/2016**

DR. CHUNNI LAL RAM

..... Petitioner

Through: Mr. Pradeep Kant, Sr. Advocate with
Mr. Divyanshu Sahay and Mr.
Akshay Sapra, Advocates.

versus

FOOD CORPORATION OF INDIA THROUGH
ITS CHAIRMAN AND MANAGING DIRECTOR AND ANR

..... Respondents

Through: Mr. Rahul Srivastava, Advocate for
R-1.
Ms. Shiva Lakshmi, CGSC for R-2.

CORAM:

HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA

ORDER

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26.02.2016

C.M. Appl. No. 7075/2016 (for exemption)

Exemption as prayed for is allowed subject to all just exceptions.

The application stands disposed off.

W.P.(C) 1636/2016 and CM Appl. No. 7076/2016 (for directions)

The petitioner, *inter alia*, impugnes the decision of the concerned DPC to place its decision relating to his promotion to Chief General Manger (Genl.) in a sealed cover apparently on the ground

that there exists an FIR dated 1st April, 2013 filed against the petitioner by CBI, notwithstanding the fact that no charge sheet has been framed by the concerned Court till today. In this context, reliance is also placed by learned counsel for the petitioner to the decisions of the Supreme Court in *Union of India and others v. K.V. Jankiraman*, 1991 (4) SCC 109 and *Union of India and others v. Anil Kumar Sarkar*, 2013 (4) SCC 161. It is also pointed out that the latter is also a case where an FIR had been lodged by CBI and is relevant for the proposition that so long as there is no charge sheet framed by the competent Court on the date of consideration by the DPC, the promotion in question cannot be denied to the petitioner. He also relies on a circular issued by DOPT as O.M. dated 14th September, 1992 as well as Circular No.36 dated 17th December, 1996 of respondent No.1, which was further clarified by DOPT vide O.M. dated 2nd November, 2012. It is also pointed out that a representation tiled as ‘Appeal for Promotion to the post of CGM(Genl.)’, moved by the petitioner to respondent No. 1 on 27th November, 2015, has also remained unaddressed by the respondent so far.

Issue notice.

Counsel for respondent No. 1 accepts notice. He states that the aforesaid representation shall be duly considered and disposed off on merits with a speaking order within six weeks from today, which shall be duly communicated to the petitioner within five days thereafter.

Under the circumstances, without going into the merits, the petition is disposed off with a direction to the first respondent to consider and dispose off the aforesaid representation on merits with a speaking order within six weeks from today. The orders passed thereon shall also be communicated to the petitioner within five days thereafter.

The petition is disposed off on the aforesaid terms, whilst reserving the rights of the petitioner to take recourse to all remedies that may be available to him in law on any cause of action, including the grounds agitated in this petition, in case he is so advised. Further, it is made clear that no opinion is being expressed by this Court on the merits of the matter one way or the other.

The petition and the pending application are disposed off in the above terms.

A copy of the order be given *dasti* to counsel for both the parties.

SUDERSHAN KUMAR MISRA, J

FEBRUARY 26, 2016

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