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

+ **FAO 174/2014**

DELHI TRANSPORT CORP & ORS. Appellant

Through: **Mr. Ruchir Gupta & Ms. Swati
Jain, Advocates**

versus

SURENDRA KUMAR Respondent

Through: **Mr. R.B.S. Chauhan, Advocate**

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **10.08.2016**

C.M. 15835/2015 (u/S 5 of The Limitation Act)

In view of order of 10th July, 2014, this application is disposed of as infructuous.

FAO 174/2014 & C.M. 15834/2016 (for stay)

Respondent's suit for declaration of penalty of stopping of one increment with cumulative effect was rejected by recourse of Order VII, Rule 11 (d) of CPC while holding that such a suit is barred by the *Industrial Disputes Act*. Trial court's order of 10th July, 2009 was challenged by the respondent before the Appellate Court and vide impugned order of 20th January, 2010, respondent's suit for declaration has been remanded back to trial court for trial while holding that the

jurisdiction of civil court is not barred by the provisions of the *Industrial Disputes Act*.

In this appeal, challenge to the impugned order is laid on number of grounds but at the hearing, learned counsel for appellant placed reliance upon additional affidavit of appellant along with which copy of Notification of 1st December, 2008 has been annexed, which discloses that provisions of Sub- Section (2) of Section 14 of *The Administrative Tribunals Act, 1985* would apply to appellant-Corporation. Meaning thereby, any service litigation with appellant-Corporation is to be dealt with by the Central Administrative Tribunal.

During the course of hearing, learned counsel for appellant had drawn attention of this Court to Section 28 of *The Administrative Tribunals Act, 1985* to point out that in matters pertaining to imposition of any penalty upon employee of appellant-Corporation, the jurisdiction to challenge the penalty imposed is the Central Administrative Tribunal and jurisdiction of all other courts except Supreme Court is excluded. Attention of this Court was drawn to Section 29 of the of *The Administrative Tribunals Act, 1985* to point out that all the pending cases are to be transferred to the Central Administrative Tribunal. However, it is also pointed out that proviso to Section 29 of the aforesaid Act makes it clear that this Section would not apply to any pending appeal in the High Court. It is submitted that the suit cannot be remanded back to the civil court but respondent's suit has to be treated as an original application and has to be proceeded with before the Central Administrative Tribunal.

Learned counsel for respondent fairly states that in view of the aforesaid Notification, the suit ought to be transmitted to the Central

Administrative Tribunal but with a rider that it would be expeditiously proceeded with.

In view of the stand taken as aforesaid, the impugned order is modified to the extent that upon remand, the respondent's suit would be now renumbered as original application and be tried by the Central Administrative Tribunal. It is expected that respondent's suit (*now the original application*) would be expeditiously proceeded with.

With aforesaid directions, this appeal and applications are disposed of.

(SUNIL GAUR)
JUDGE

AUGUST 10, 2016

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