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

\+ W.P.(C) 4772/2016 & C.M.Nos. 19923-24/2016

KUMAR PUNIT & ORS ..... Petitioners

Through Mr.Tanmay Mehta, Mr. Aditya Parolia and Mr.Piyush Singh, Advs.

versus

UNION OF INDIA & ANR ..... Respondents

Through M.V.Shivalakshmi, CGSC alongwith Mr.Arpit Shukla, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 23.05.2016

1. This writ petition is directed against interim order dated 29th April, 2016 passed in M.A. No. 1485/2016 and O.A.No.1504/2016 titled as A.N.Tiwari & Ors. Vs. M/O Labour. By the order dated 29th April, 2016 notice were issued in the O.A. and M.A., for 19th July, 2016. It has been directed that promotion, if any, made to the higher post of Regional Provident Fund Commissioner shall remain subject to the outcome of the O.A..

2. The aforesaid O.A. relates to *inter* se seniority between the direct recruits and the promotee officers. The facts as disclosed show that the vacancies pertain to the year 2003 onwards. The recruitment process for appointing direct recruits was initiated in the year 2009. The examination was held on September, 2012 and the results were declared on 16th August, 2013.

3. The promotee officers were promoted much earlier.

4. Learned counsel for the petitioner has relied upon O.M. dated 4th

March, 2014 in support of his contention that when rota and quota is applicable, , direct recruits would get appropriate seniority at least from the date when the decision for appointment was initiated. The direct recruits rely on the judgment of the Supreme Court in *Union of India vs.N.R.Parmar, (2012) 13 SCC 340*.

5. These are aspects relating to the core dispute which the Tribunal would examine and decide. It is noticed that the promotee officers are not impleaded as a party, though the seniority is an issue and raised. We have referred to primary basic facts and would not like to comment on merits, for they are required to be debated, discussed and then decided.

6. Keeping in view the aforesaid facts, we are not inclined to interfere with the impugned order. It will be open to the Tribunal to modify, amend and pass further direction in the O.A. and M.A. on the next or other dates of hearing. We clarify that this court has not expressed any opinion on merits. As and when the O.M. and M.A. are listed, the same will be considered and examined by the Tribunal without taking into consideration any observation made by this order.

7. Recording the above, the present petition is dismissed. Pending applications are also disposed of.

SANJIV KHANNA, J

NAJMI WAZIRI, J

MAY 23, 2016
mr