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

+ W.P.(C) 4176/2015

AJAY KUMAR MANN

..... Petitioner

Through: Mr. Bishwambhar D. Sharma,
Advocate with Mr. Ajay Kumar,
Advocate.

versus

TATA POWER DELHI DISTRIBUTION LTD. (TPDDL)..... Respondent

Through: Mr. Sujit Kumar Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

% **16.11.2016**

C.M. No.7566/2015 (exemption)

1. Exemption allowed subject to just exceptions.

C.M. stands disposed of.

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2. By this writ petition, the petitioner who is an employee of the respondent seeks the relief of being granted benefits of seniority and promotion w.e.f 1.7.2013. The case of the petitioner is that merely because an FIR No.287/1999 was pending, and which is over 15 and half years old at the time of filing of the writ petition, the petitioner cannot be denied service

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benefits including of seniority and promotion in view of the circular of the Government of India, Ministry of Personnel, Public Grievances and Pensions dated 8.1.2003. In this circular dated 8.1.2003, it is stated that the sealed cover procedure will be adopted only if an officer is under suspension or a chargesheet has been issued and departmental proceedings are pending or there is a prosecution for a criminal charge pending in a court of law against the employee.

3. I have put a query to the counsel for the respondent as to whether the circular dated 8.1.2003 as per the counter affidavit of the respondent is not applicable to the parties, and to which counsel for the respondent states that in the counter affidavit to the writ petition there is no denial that the circular dated 8.1.2003 binds the parties to this writ petition. It is thus seen that neither the petitioner is under suspension nor a chargesheet has been issued for disciplinary action nor is there any prosecution for a criminal charge in a court of law because there is no case pending in a court of law but there is only an FIR which was around 15 and half years old at the time of filing of the writ petition and now around 17 years old, and that there is no committing of the petitioner to a criminal case much less by

filing of a charge sheet.

4. In view of the above, this writ petition is allowed and the respondent is directed to give all service benefits to the petitioner in accordance with law w.e.f 1.7.2013. Parties are left to bear their own costs.

VALMIKI J. MEHTA, J

NOVEMBER 16, 2016

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