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

+ **W.P.(C) 9230/2016**

UNION OF INDIA & ORS.

....Petitioners

Through: Mr. Tushar Mehta, Solicitor General
of India with Mr. Zoheb Hussain &
Mr. Farman Ali, Advocates

versus

ASHOK KUMAR AGGARWAL & ANR.

....Respondents

Through: Mr. Rakesh Khanna, Senior Advocate
with Mr. Aman Vashisht,
Mr. Ashutosh Dubey & Mr. Aditya
Khanna, Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

13.08.2024

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CM APPL. 44626/2024

1. In this disposed of petition, by filing CM No. 44626/2024, respondent No.1 has sought a direction to the petitioners restraining them to hold review of Review DPC with further direction to implement the recommendations of the Review DPC held on 24.01.2023.

2. In terms of last order dated 21.05.2024, affidavit dated 05.08.2024 has been placed on record on behalf of the petitioners, *inter alia* citing the circumstances under which the case was remanded back for review of the Review DPC. It is also stated in the affidavit that petitioners have complied with the common order dated 02.02.2016 passed by the learned Tribunal, common judgment dated 24.05.2018 passed by this Court and order dated



15.02.2019 passed by the Hon'ble Supreme Court.

3. Petitioners have also placed before this Court Communication dated 12.08.2024 passed by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, whereby in reference to OM No. A-18011/44/2015-Ad.VI dated 09.08.2024 issued by the Department of Revenue, the proposal for non-empanelment of respondent No.1 for promotion to the grade of Commissioner of Income Tax (CIT) for the panel years 2005-06 to 2019 in pursuance to recommendations of the review of Review DPC held on 6th and 8th August, 2024, has been approved.

4. Mr. Rakesh Khanna, learned senior counsel appearing on behalf of the respondents submits that in view of aforesaid communication dated 12.08.2024 issued by DoPT, the present application has become infructuous. He further submits that the petitioners may be directed to provide minutes of review of the Review DPC held on 06.08.2024 & 08.08.2024 and insists that thereafter only, he will be able to make submissions.

5. Learned Solicitor General of India, who is appearing through video conferencing, submits that minutes of review of the Review DPC shall be furnished to the respondents during the course of the day.

6. At this stage, learned senior counsel for the respondent No.1 submits that let the Minutes of ACC be also provided to the respondents, to which the learned Solicitor General has raised objection submitting that the decision of ACC is based upon the material placed by the Review DPC, which is not required to be ascertained in the present case. Learned Solicitor General submits that ACC does not give reasons either in approving or disapproving any case and also, as a matter of confidentiality, minutes of ACC have never been served upon any officer till date and also, if one is



aggrieved against the decision of the ACC, the same has to be challenged in appropriate proceedings.

7. Accordingly, we hereby make it clear that if the ACC Minutes or decisions have been furnished to any officer in the past, the same shall be furnished to the respondent No.1 herein as well and the said respondent shall be at liberty to challenge the same before appropriate forum, if so desired.

8. In light of the communication dated 12.08.2024 passed by DoPT, nothing survives in CM No. 44426/2024 and the same is accordingly disposed of, with liberty to the respondent No.1 to file afresh before the appropriate forum, if need be.

CM APPL. 11272/2019 & CM No. 19013/2019

9. By CM No. 11272/2019, respondent No.1 has sought a direction to the petitioners to grant all consequential benefits to him, immediately including his promotions, at par with his juniors in compliance of judgment dated 24.05.2018.

10. By CM No. 19013/2019, respondent No.1 has sought a direction to the petitioners to process his case for promotion at par with his juniors for the post of Member, CBDT.

11. Relevantly, the writ petition was disposed of vide judgment dated 24.05.2018 and the appeal preferred by the Union of India was dismissed by the Supreme Court on 15.02.2019 and thus, attained finality.

12. After disposal of the writ petition, respondent No.1 filed the two applications captioned above, which in our considered opinion are not maintainable as the appropriate course for respondent No.1 would have been to file contempt proceedings if the judgment dated 24.05.2018 is not complied by the petitioners and was rightly filed, however, withdrawn



thereafter by respondent No.1. Moreover, learned Solicitor General has informed that respondent No.1 has already been compulsorily retired as Joint Commissioner, which he has already challenged before the Court and is pending adjudication. The aforesaid is not disputed by learned counsel for respondent No.1.

13. Accordingly, in view of affidavit dated 05.08.2024 filed by the petitioners and order passed today in CM No. 4426/2024, these applications have become infructuous and are disposed of as such.

CM No. 54958/2022 (for impleadment of UPSC)

14. Disposed of as infructuous.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

AUGUST 13, 2024
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