

\$~22

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

+ **W.P.(C) 9515/2006**

U.O.I

..... Petitioner

Through: Mr J.K. Singh, Standing Counsel and
Ms Madhulika Agarwal, Adv.

versus

P.K.SHARMA

..... Respondent

Through: Ms Meenu Mainee, Adv.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

%

18.09.2017

1. The petitioner, Ministry of Railways/Union of India is aggrieved by the judgment dated 08.05.2006, pronounced by the Central Administrative Tribunal, Principal Bench in OA No.869/2006, filed by the respondent herein praying *inter alia* that he be considered for appointment to the post of Additional Member (Staff). The Respondent approached the learned Tribunal for an appointment to the post of Additional Member (Staff) on the basis of judgement of the Tribunal in ***S.C. Manchanda v. Union of India, OA No.211/2002, decided on 08.07.2002*** on the premise that he being the senior most in the IRPS cadre, he ought to be appointed on the post of Additional Member (Staff). The learned Tribunal granted the said relief to the respondent, vide impugned judgment dated 08.05.2006, as under:-

“In view of the above, we find no justification in the contention raised by respondents and accordingly restrain
W.P.(C) 9515/2006

Page 1 of 2

respondents from considering/posting a non-IRPS officer as Additional Member (Staff). Respondents are also directed to consider applicant for promotion to the post of Additional Member (Staff), even if such post has to be down graded as was done in the case of Shri S.C. Manchanda till final disposal of the OA. Ordered accordingly.”

2. Aggrieved by the aforesaid judgment, the petitioner/Union of India filed the present petition and vide order dated 01.10.2002, operation of the impugned judgment was stayed. One of the main planks for assailing the impugned judgment is the findings returned by the Tribunal to the effect that the post of Additional Member (Staff) is an encadred post in the IRPS.

3. Learned counsel for the parties state in unison that much water has flown under the bridge over the past decade and a half and the respondent has superannuated during the pendency of the present petition. Both the parties state that instead of addressing arguments on the merits of the writ petition, in view of the fact that the respondent had retired on 31.10.2012 and prior thereto, he was appointed on the post of Additional Member (Staff) in the Railway Board, the present petition may be disposed of while keeping the aforesaid legal issue open for a decision in an appropriate case.

4. Accordingly, while keeping open the legal issue raised herein with regard to the encadrement of the post of Additional Member (Staff) in the IRPS, to be considered, if raised in the future, in any case, the present petition is disposed of.

HIMA KOHLI, J

DEEPA SHARMA, J

SEPTEMBER 18, 2017/bg