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

+ W.P.(C) 2786/2017 & CM Nos. 12071/2017 & 12072/2017

UNION OF INDIA AND ORS. Petitioners

Through Mr. Ashok Singh, Advocate.

versus

PANKAJ KUMAR Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **29.03.2017**

We are not inclined to interfere with the impugned order dated 22nd August, 2016 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) whereby OA No. 3084/2011 filed by Pankaj Kumar, the respondent before us, has been allowed.

2. The Tribunal has rightly held that there is a difference between seniority and eligibility after referring to ***Renu Mullick versus Union of India and Another***, (1994) 1 SCC 373, and Pankaj Kumar being eligible was entitled to be considered in the year 2005 for the post of Goods Driver/Loco-Pilot grade.

3. The respondent had worked as an Assistant Loco-Pilot in South Eastern Railway with effect from 21st May, 1996. On transfer to the Northern Railway, Delhi Division on 14th July, 2004, he was placed at the bottom of the seniority list at serial No. 325. This would not make any

difference for the experience earned by the respondent in the South Eastern Railway at the post of Assistant Loco-Pilot would count. Seniority is not to be equated and confused with eligibility.

4. Counsel for the petitioner-Railways submits that one Tek Chand, senior to the respondent did not fulfil the eligibility criteria and was not considered. As per paragraph 215 of IREM, Volume I, if a junior is eligible for any selection then the senior also becomes eligible. This cannot be a ground or reason for the Writ Court to upset and set aside the impugned order. The petitioner would have to apply and abide by the Rule position. The reason and ground as raised, would not merit acceptance and does not call for judicial review of the relief granted to the respondent.

5. The writ petition has no merit and is dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

MARCH 29, 2017
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