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

+ W.P.(C) 7002/2015 and C.M. No. 12834/2015

GENERAL MANAGER NORTHERN RAILWAY

BARODA HOUSE & ANR Petitioners

Through: Mr. Om Prakash, Advocate.

versus

VIJAY KUMAR

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

27.09.2017

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1. The petitioner has assailed the order dated 12.08.2014 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No.833/2014.

2. By the impugned order, the Tribunal has allowed the Original Application preferred by the respondent applicant, wherein he had raised a grievance that his pay should be fixed in the scale of pay Rs.6500-10500 from 10.04.1995/ 20.04.1995, i.e. when his juniors, namely, Mohd. Indrishi Ansari, Shri Ishwar Chand, Shri Vidya Prakash, Shri Balwan Singh and Shri C.L. Meena were given the aforesaid scale.

3. Even prior to filing the present OA, the respondent successively preferred Original Applications to seek promotions from one grade to another, which were all allowed from time to time. Suffice it to say that the

respondent was promoted to the post of Chief Parcel Officer in the grade of Rs.6500 – 10500 with grade pay of Rs.4600 with effect from 15.11.2011. The respondent's seniority was fixed and he was shown at serial number 36 below Sh. Vidya Prakash, CPS.

4. The respondent claimed that since his juniors, whose names he had disclosed, had been given the aforesaid scale Rs.6500-10500 from 10.04.1995, he also should be given the said benefit from the said date. The respondent's representation to this effect was rejected by the petitioner on 06.01.2014, on the ground that he had been issued a charge-sheet on 24.05.2001, which was finalised on 15.05.2009, imposing penalty of reduction to initial grade in the cadre with cumulative effect for a period of one year with effect from 01.07.2010 to 30.06.2011. On completion of the said period of penalty, the respondent was granted MACP benefit in the Grade Pay Rs.4600 with effect from 01.07.2011 and second MACP was granted in the Grade Pay of Rs.4800 with effect from 01.07.2011. He was also promoted as CPS Grade Pay of Rs.4600 with effect from 15.11.2011 after completion of the punishment.

5. The Tribunal while allowing the Original Application observed that the juniors of the respondent were granted the pay scale of Rs.6500-10500 with effect from 10.04.1995, whereas the departmental inquiry was initiated against the respondent six years later in the year 2001. Thus, the subsequent disciplinary proceedings taken against the respondent could not affect the pay scale to which he was entitled on account of his juniors being granted the same. In the aforesaid circumstances, the Tribunal allowed the Original Application and directed the petitioner to grant the pay scale of Rs.6500 –

10500 to the respondent with effect from 10.04.1995 with all consequential benefits. The Tribunal also directed that in case other similarly placed persons were granted the arrears of pay and allowances with interest, the respondent applicant shall also be given the same.

6. Learned counsel for the petitioner submits that before the Tribunal the petitioner had pointed out that three of the persons, whose particulars were disclosed by the respondent by claiming that they were junior to him, namely Shri Vidya Prakash, Shri Devender Kumar and Shri Vijay Kumar were, in fact, senior to the respondent.

7. Even if that position be accepted, there is no explanation with regard to the other three persons named by the respondent, namely, Mohd. Indrisha Ansari, Shri Ishwar Chand, and Shri C.L. Meena. In any event, the petitioner has no explanation as to how disciplinary proceedings undertaken six years after the relevant date – when the pay scale of Rs.6500-10500 was granted to at least some of the juniors of the respondent, could affect the right of the petitioner to be granted the same pay scale as his juniors.

8. In these circumstances, we find no merit in this petition. The same is, accordingly, dismissed. The petitioner shall comply with the order passed by the Tribunal positively within two months.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 27, 2017

B.S. Rohella