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

+ **W.P.(C) 6986/2017**

AMMINI RAJAN AND ORS

..... Petitioner

Through: Mr. S. Rajappa, Mr. R Tanwar and
Dr. Puran Chand, Advocates

versus

UOI AND ANR

..... Respondent

Through: Mr. Anurag Ahluwalia, CGSC for R-
1 & 2

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

17.08.2017

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C.M. No. 28987/2017

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 6986/2017

The petitioner has preferred the present writ petition to assail the order dated 19.07.2016 passed by the Central Administrative Tribunal (CAT/ Tribunal) in O.A. No.3596/2013. The tribunal dismissed the said O.A. preferred by the petitioner challenging the fixation of seniority of the departmental promotee and direct recruits which was required to be drawn in terms of the decision rendered by the tribunal in T.A. No.356/1985 dated 20.11.1992 in

terms of the directions issued by the Supreme Court on 19.02.2008 in Civil Appeal Nos.1384-85/2008.

The contempt petition preferred before the Supreme Court raising a grievance that the said decision dated 19.02.2008 had not been complied with and the seniority list had not been drawn in terms of the decision of the tribunal in *M.G. Bansal & Ors. v. Union of India & Ors.*, in T.A. No.356/1986 was disposed of by the Supreme Court, inter alia, by observing that the seniority list which had been prepared appears to be in consonance with the directions given by the Supreme Court as well as directions given by the tribunal in *M.G. Bansal* (supra).

The seniority list as prepared was placed before the Supreme Court in the contempt proceedings and perused by the Supreme Court, on the basis of which the aforesaid observations were made. However, the Supreme Court observed that it is possible that while computing the seniority of the parties, errors may have been committed with regard to the dates of appointment of the respective parties. To that extent, it was left open to the parties to approach the tribunal. Consequent upon the said order, the aforesaid OA was preferred before the tribunal.

In the impugned order, the tribunal has observed in para-6 that the seniority list placed on record as Annexure-A shows that the dates of appointment of individual DR/ DP officers have been correctly indicated in the seniority list. It also records that on the said aspect, no dispute has been raised by either of the parties.

Mr. Rajappa submits that the tribunal has not correctly recorded the position inasmuch, as, the petitioners had sought to urge before the tribunal that there were errors in the drawing up of the seniority list. He submits

that, in fact, no seniority list had been drawn up in terms of *M.G. Bansal* (supra).

In the face of the position recorded in para-6 of the impugned order, the petitioner cannot be permitted to urge the said submission in this court. The correct remedy for the petitioner would be to approach the tribunal by way of a review application – if it is the submission of the petitioner that the tribunal has not correctly recorded the factual position.

Mr. Rajappa seeks leave to withdraw the petition with liberty to file the review application.

The petition is, accordingly, dismissed as withdrawn. In case the review is preferred before the tribunal in the next two weeks, the same may be entertained without raising the issue of limitation.

Petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

REKHA PALLI, J

AUGUST 17, 2017

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