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

+ **W.P.(C) 10191/2015**

RITA AHUJA

..... Petitioner

Through: **Mr. Dusyant Sisodiya, Advocate
with Mr. Ajandra Sisodiya and
Mr. Vikash Kumar Verma, Advocates**

versus

UNION OF INDIA & ORS

..... Respondents

Through: **Ms. Amrita Prakash and Mr. Mohit
Bhardwaj, Advocates**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

31.07.2017

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1. Issue notice. Learned counsel for the respondents accepts notice.
2. Matter is being heard at the admission stage itself. For the orders that we propose to pass, it is not necessary to call for a reply.
3. The present writ petition is directed against the order dated 23.04.2015 passed by Central Administrative Tribunal (Principal Bench) New Delhi in O.A. No.3415/2012 and order dated 23.07.2015 in Review Application No.2323/2015 by the said Tribunal.
4. There are two aspects urged by learned counsel for the petitioner. The first relates to the respondents not preparing year-wise panel in respect of vacancies while convening the review Departmental Promotion Committee ('DPC') which were held on dated 23rd and 24th March, 2009 in respect of

vacancies of Chargeman Part-II Cadre during the period 2002 to 2005. Our attention has been drawn by the learned counsel for the petitioner to the year-wise vacancy position in the Cadre of Chargeman Part-II which reads as under:-

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Ser No	Year	Auth	FM	SCM	CM	Total	Def	Wastage	Total Vacancies
01	2002	43	04	05	28	37	06	10	16 @
02	2003	41	02	03	35 (27+8)	40	01	09	10
03	2004	36	01	03	34 (18+16)	38	+2	14	12
04	2005	31	--	03	29 (7+22)	32	+1	13	12

@ Panel was already drawn for 10 vacancies in DPC Jan 2002 and promoted to C/Man Part-II Cadre.”

4. Learned counsel for the petitioner points out that the total number of vacancies, clubbed together, comes to 40 for the years 2002 to 2005. The DPC also records in its Minutes that:-

“1. The Committee having assembled pursuant to order proceed to draw panel in respect of 146 Tailors for Promotion to Chargeman Part II Cadre against the 40 vacancies arisen prior to promulgation of SRO 15/2006 i.e for the period from 2002 to 2005.”

5. Learned counsel for the petitioner further submits that the DPC should have prepared a year-wise panel which has not been done in the present case.

6. Learned counsel for the petitioner submits that Tribunal has held that only 24 vacancies were existing and filled up. He submits that in view of this patent error the impugned order cannot be sustained.

7. In this regard, he places reliance on Office Memorandum dated 14.11.2014 issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training). This OM, in turn, refers to another Office Memorandum issued by DoPT bearing No.22011/8/87-Estt.(D) dated 09.04.1996. According to the petitioner, the instructions laid down in the O.M. have not been implemented by the respondent.

8. Learned counsel further submits that since a composite panel was prepared for all the four years i.e. 2002 to 2005 by bunching the vacancies, the case of the applicant was not properly considered by the DPC. We find that this aspect has not been addressed by the Tribunal either in the order dated 23.04.2015 or in the order passed in the Review Application.

9. The second aspect urged by the petitioner is with regard to her supersession by two junior persons, namely, Mr. Vijay Kumar (Token No.3427) and Mr. Subhash Chandra (Token No.3447). The stand taken by the respondents that the petitioner was not promoted on account of her having not meeting the eligibility criteria as she had not cleared the Trade Test for Highly Skilled Grade, *prima facie*, cannot be accepted, as the Minutes of the Review DPC shows that the petitioner was found fit for promotion.

10. Learned counsel for the petitioner has also referred to the information obtained by him under the Right to Information Act, 2005 which also, *prima facie*, shows that the petitioner may have been exempted from taking the said test just like Mr. Vijay Kumar and Mr. Subhash Chandra. These aspects have also not been addressed by the Tribunal in the impugned order. In these circumstances, we are inclined to set aside the impugned orders passed by the Tribunals. The matter is remanded back to the Tribunal for re-

consideration afresh of all the relevant aspects.

11. Considering the fact that the original application of the petitioner was preferred in the year 2012, we also request the Tribunal to expedite the hearing of the case, on the basis of the existing record as well as the documents that have been additionally filed before this Court. The petitioner shall place on record all such additional documents before the Tribunal within two weeks from today with an advance copy to learned counsel representing respondent before the Tribunal. The parties shall appear before the Tribunal on 21st August, 2017 on which date neither of the parties shall seek or be granted any adjournment by the Tribunal.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 31, 2017

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