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

\+ W.P.(C) 2736/2018 AND C.M. APPL. 11103/2018

UNION OF INDIA & ORS ..... Petitioners
Through Mr. Ashok Singh, Adv. for UOI.

versus

BHAGWAN DASS & ANR ..... Respondents
Through Mr. Ritvik Parikh, Adv.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% 13.11.2018

1. The present writ petition has been filed by the petitioner to assail the order dated 03.10.2017 passed by Central Administrative Tribunal in O.A. No. 1997/2012.

2. By an extremely short order, the Tribunal has allowed the original application preferred by the respondents by placing reliance on the judgment of this court in *Union of India vs. Surinder Kumar Dhingra* [WP(C) 2052/2012 decided on 05.09.2017].

At the outset, we may observe that the Tribunal should have at least noted the basic facts of the case while passing the impugned order even if it was satisfied that the present case is squarely covered by the decision in *Surinder Kumar Dhingra* (supra). We would have remanded the matter back to the Tribunal for passing a detailed order, however, to save the time and the costs of the respondent, who has retired, we have decided to proceed with the matter.

3. The original application was preferred by two applicants i.e. Mr. Bhagwan Dass and Mr. Mohinder Singh, who are impleaded as respondent nos.1 and 2, respectively in the instant petition. Learned counsel for respondent no.1- Bhagwan Dass submits that as per his information, respondent no.2-Mohinder Singh has since passed away. However, in view of the order that we propose to pass, we do not deem it necessary to bring his legal heirs on record, since no order detrimental to the interest of his legal heirs is being passed.

4. Mr. Bhagwan Dass and Mr. Mohinder Singh (since deceased) were initially appointed to the post of Loco Cleaner in the Railways Department on 05.06.1975 and 17.06.1975 respectively. Both of them were promoted to the post of Fireman (Assistant Driver) on 29.07.1983. Mr. Bhagwan Dass was promoted to the post of Goods Driver in the year 1993 and subsequently, promoted to the post of Loco Inspector on 22.09.1997. He was further promoted to the post of Senior Loco Inspector w.e.f. 01.11.2003 and retired from the said post on 30.11.2011. On the other hand, Mr. Mohinder Singh was promoted to the post of Goods Driver in the year 1993 and promoted to the post of Loco Inspector on 16.09.1997. He was further promoted as Senior Loco Inspector on 01.11.2003 and retired from the said post voluntarily on 10.01.2011. The said respondents cited the cases of two of their juniors namely, Mr. Pramod Kumar and Mr.Mukesh Kumar to avail benefits. In the seniority list of Loco

Inspectors, Mr. Pramod Kumar was at serial no. 14 and Mr. Mukesh Kumar was at serial no. 37. As opposed to that, Mr. Bhagwan Dass was placed at serial no.9 and Mr. Mohinder Singh was placed at serial no.7 in the same seniority list. The said respondents claim that their juniors Mr. Pramod Kumar and Mr. Mukesh Kumar were drawing higher pay than them and consequently, sought upgradation of pay. While rejecting their representations, the stand taken by the petitioner vide its communication dated 08.07.2011 was that the case of stepping up of pay of Loco Inspectors was sub-judice before the CAT in O.A. No. 3857/2010 and that, the case of Mr. Bhagwan Dass for stepping up of his pay would be dealt with accordingly, after the outcome of the said case. Pertinently, the said O.A. no. 3857/2010 pertains to the original application preferred by Mr. Surinder Kumar Dhingra, which was allowed by the Tribunal on 24.10.2011 and the writ petition WP(C) 2052/2012 preferred by the Union of India against that decision was dismissed by this court on 05.09.2017.

5. The submission of the learned counsel for the petitioner is that stepping up of pay under Rule 7 of the RS(RP) Rules, 2008 could be undertaken only upon fulfilment of the following conditions :

> "(a) That both the junior and senior railway servants should belong to the same cadre and the posts to which they had been promoted should be identical in that cadre;
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> (b) The pre-revised scale of pay and the revised grade pay of the lower and higher posts in which they are entitled to draw pay should be identical."

6. It is pointed out by the learned counsel for the respondent no.1

that the said argument was raised before this court in *Surinder Kumar Dhingra* (supra) and the same was considered and rejected by this court and the Special Leave Petition preferred thereagainst was dismissed by the Supreme Court on 17.07.2018 in SLP(Civil) Diary no. 14746/2018.

7. Having heard the learned counsel for the parties and having perused the record, we may observe that learned counsel for the petitioner has not been able to distinguish the present case from the case of *Surinder Singh Dhingra* (supra). The submissions raised by the petitioner in the present petition are identical with those raised and considered in the case of *Surinder Singh Dhingra* (supra). There is no dispute about the fact that juniors of the respondents, as noted herein above, were drawing higher pay as Loco Pilot Goods. The respondents are therefore, entitled to stepping up of their pay to the level of their juniors from the date the juniors started getting higher pay.

8. In view of the foregoing, we do not find any merit in the present writ petition and dismiss the same leaving the parties to bear their own costs.

VIPIN SANGHI, J

A. K. CHAWLA, J

NOVEMBER 13, 2018
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