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

+ W.P.(C) 7743/2018 & CM APPL. 29659/2018 (for stay)

UNION OF INDIA AND ORS

..... Petitioners

Through: Mr. Arun Bhardwaj, CGSC with
Mr. Nikhil Bhardwaj, Mr. Shashwat
Sharma and Mr. Prateek Rai,
Advocates.

versus

RAJEEV KUMAR AND ORS

..... Respondents

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Sidharth Chopra and Mr. Navneet
Thakran, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

29.10.2018

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At the outset, it is pointed out by Mr. Uppal, learned senior counsel representing the respondents that the petitioner-Union of India has already moved an application to withdraw the writ petition. An advance copy of the application was served on the counsel for the respondents on 16.08.2018. However, the same is not on record. Mr. Uppal, learned senior counsel for the respondents has shown to the Court copy of the said application received by him. We have, in turn, shown the same to Mr. Bhardwaj, learned standing counsel for the petitioners. He does not deny that the application bears his signatures and that the same was filed in the Registry. It is also

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pointed out by learned senior counsel for the respondents that several writ petitions including ***Union Public Service Commission vs. Garima Singh & Ors.*** W.P.(C) 7619/2011, ***Union of India vs. Garima Singh & Ors.*** W.P.(C) 2176/2012 etc., which had come up before the Court on 29.05.2015 were withdrawn by the learned Additional Solicitor General on instructions. Thus, all the petitions preferred by the UPSC and Union of India - wherein the decision of the Tribunal in ***Garima Singh vs. Union of India & Ors.*** O.A. No.3278/2010 and other connected original applications rendered by a Three Member Bench of the Tribunal was assailed were withdrawn. The decision rendered by the Three Member Bench in ***Garima Singh*** (supra) was followed in the case of. ***Pankaj Nayaan & Ors.*** by the Tribunal, which forms the subject matter of the present challenge. Submission of learned senior counsel for the respondents is that in view of the aforesaid position, it is not open to the Union of India to prefer the present petition, it having accepted the decision of the Full Bench of the Tribunal in ***Garima Singh*** (supra).

We are of the considered opinion that it is not open to the Union of India to pursue the present petition. The Union of India cannot be seen to take different stands in different petitions involving the same issue, merely on the ground that different Commissionerates of the Excise Department were involved in different cases. The controlling authority in the matter of the service conditions of Civil Servants of the Central Government is the Department of Personnel & Training (in short ('DoP&T')). The DoP&T has taken the stand that the decision in ***Garima Singh*** (supra) should be accepted and implemented.

A perusal of the order dated 29.05.2015 shows that apart from the W.P.(C) 7743/2018

petitions preferred by the UPSC and Union of India, some of the other writ petitions preferred by the affected officers namely Mr. Arvind Kumar and Mr. Atya Nand and others being WP(C) 6597/2012 and 3003/2013 were also listed on the same date wherein challenge to the decision in ***Garima Singh*** (supra) was raised. They were however, not withdrawn and consequently the issues raised in the petitions were left open.

Be that as it may, it is not open to the Union of India or UPSC to speak in different voices. Consequently, the writ petition is dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

OCTOBER 29, 2018

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