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

+ W.P.(C) 8991/2017 & C.M. No. 49710/2018

UNION OF INDIA AND ANR

..... Petitioner

Through: Mr. Manish Mohan, CGSC with Ms.  
Manisha Saroha, Advs.

versus

M A KHAN

..... Respondent

Through: Mr. Saurabh Ahuja with Mr. Mohd.  
Khadim Khan, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**

**07.12.2018**

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The Union of India has preferred the present writ petition to assail the order dated 03.11.2009 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 2364/2008. The Tribunal has allowed that Original Application and issued a direction to the petitioner to consider the respondents' case for promotion from the year 2003 i.e. when the vacancy arose by constituting a review DPC, if required.

On merits, the submission of learned counsel for the petitioner is that the direction issued by the Tribunal is not legally sustainable since the settled position in law is that an employee cannot claim promotion from the date when the vacancy arose since for myriad reasons the vacancy in the

promotional post may not be filed as soon as it occurs.

Though, there may be a lot to be said about the impugned order of the Tribunal in the light of the aforesaid submission, we are not inclined to entertain the present writ petition which is highly belated. As noticed above, the impugned order was passed on 03.11.2009 and the present writ petition has been filed only in 2017, the reason contained in the applications seeking condonation of delay i.e. C.M. No. 49710/2018 is not convincing and does not disclose to us sufficient ground for condonation of delay.

Accordingly, we dismiss the writ petition while leaving the issue raised by the petitioner open for consideration in an appropriate case.

Dismissed.

**VIPIN SANGHI, J**

**A. K. CHAWLA, J**

**DECEMBER 07, 2018**

**N.Khanna**