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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.349 OF 2005

S.D. Ekbote,.)
Age 58 years,)
Inspector of Income-tax)
Nasik, R/o. Block No.14 & 15)
Haribhaktidham Co.op. Hsg. Soc.)
Deepali Nagar, Opp. Prakash)
Hotel, Nasik – 422009) …. Petitioner.

V/s

1] Union of India through)
Ministry of Finance)
Department of Revenue)
Central Board of Direct Taxes)
South Block New Delhi 110001)
)
2] Chief Commisioner of)
Income-Tax, Pune Ayakar)
Bhavan, 12, Sadhu Vaswani Road,)
Pune 411 001) ….Respondents.

Ms. Delilah Fernandes, Advocate for the Petitioner.
None for the Respondents.

CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.

DATE: 8th January, 2019

<u>ORAL JUDGMENT:</u> (*Per B.R. Gavai, J.*)

1] Petition challenges a common judgment and order dated 29/10/2004 vide which three Original Applications i.e. O.A. No.127/2004, O.A. No.128/2004 and O.A. No.220/2004 were decided together.

2] Insofar as the Writ Petition challenging the order passed in O.A. No.127/2004 filed by Mrs. Prabha V. Nair is concerned, the same came up for consideration before Division Bench of this Court in Writ Petition No.9279 of 2004. Division Bench, vide elaborate Judgment and Order dated 14/06/2018 has allowed the said Writ Petition by quashing and setting aside the judgment and order dated 29/10/2004.

3] In that view of the matter, we are inclined to dispose of the present Petition in terms of para 22 of the Judgment and Order dated 14/06/2018 passed by the Division Bench of this Court in Writ Petition No.9279 of 2004, which reads thus:

“22] Accordingly, we dispose of the petition with the following order:

(a) The impugned judgment and order dated 29.10.2004 made by the CAT is hereby set aside.

(b) We declare that the petitioner was validly promoted as Inspector with effect from 24.11.1994 by taking into consideration the year of her passing the prescribed examination.

(c) We declare that the clarification in letter dated 23.01.2003 will not apply to the case of the petitioner and on basis of the same or otherwise, the respondents are restrained from reverting the petitioner.

(d) We direct that the case of the petitioner be considered for promotion by DPC to be constituted within three months from today on the basis that the promotion of the petitioner to the grade of Income Tax Officer with effect from 24.11.1994 was legal and valid.

(e) If the DPC finds that the petitioner deserves further promotion, then, the petitioner to be granted all consequential benefits within period of three months from the date of determination by the DPC. There is no question of actual promotion, since, the petitioner has already retired from service.

(f) Rule is made absolute in the aforesaid terms.

(g) There shall, however, be no order as to costs.”

(N.J. JAMADAR, J.) **(B. R. GAVAI, J.)**