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

+ W.P.(C) 1223/2019

RACHIN MITTAL

..... Petitioner

Through: Mr. Sachin Mittal, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondent

Through: Mr. Jasmeet Singh, CGSC for R-1 to R-3

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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05.02.2019

C.M. No. 5496/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 1223/2019 & C.M. No. 5495/2019

Issue notice. Mr. Jasmeet Singh accepts notice on behalf of the respondents.

The submission of learned counsel for the petitioner is that the petitioner had preferred an Original Application before the Principal Bench of the Tribunal to assail the order dated 05.04.2018 issued by the Ministry of Finance, Department of Revenue, Central Board of Excise and Customs (CBEC) whereby the CBEC had written to the Commissioner of Customs, Mumbai vide letter dated 18.07.2017 that the decision in the case of Garima Singh and ***Pankaj Nayan*** would not be implemented till the recruitment rules for the post of Superintendant (P) are amended to incorporate provisions of DOP&T O.M. dated 25.03.1996 regarding Junior/ Senior Clause and on the ground that the decision in ***Pankaj Nayan*** was an interim

order.

Counsel points out that this Court had issued suo moto contempt proceedings in W.P. (C.) No. 11277/2016, ***Union of India & Ors. v. Pankaj Nayan & Ors.*** vide order dated 01.08.2018 on account of non-implementation of the orders passed by the Tribunal and they were dropped only when the decision was implemented in relation to ***Pankaj Nayan*** and Others.

Prima facie, it appears to us that the Tribunal failed to take notice of the fact that the order dated 05.04.2018 issued by the CBEC has been issued from Delhi and, therefore, the Tribunal had the jurisdiction to deal with the challenge to the said communication.

We have heard counsels and we are of the view that the petition can be disposed of by remanding the matter back to the Tribunal for consideration on merits.

Accordingly, the impugned order dated 28.01.2019 passed by the Tribunal is set aside and the matter is remanded back to the Tribunal for hearing on merits.

Let the parties appear before the Tribunal on 14.02.2019.

The petition stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

A. K. CHAWLA, J

FEBRUARY 05, 2019

N.Khanna