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

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Date of Decision:16.04.2019

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W.P.(C) 3940/2019

UNION OF INDIA AND ORS.

..... Petitioner

Through: Mr. Mahender Kr. Bhardwaj with Mr.
K.C. Dubey and Ms. Vinita Kumari
Ashutosh, Advs.

versus

SH. NITIN AND ORS.

..... Respondent

Through: Mr. M.K. Bhardwaj, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

VIPIN SANGHI, J. (ORAL)

C.M. No. 17894/2019

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

CAV No. 403/2019

Counsel for the caveator has appeared. The caveat is, accordingly, discharged.

W.P.(C) 3940/2019 & C.M. No. 17893/2019, C.M. No. 17892/2019

1. The petitioner Union of India has preferred the present writ petition

along with the aforesaid applications to assail the order dated 20.11.2017 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A No. 4037/2017 along with an application (**C.M. No. 17893/2019**) to seek condonation of delay of 447 days in preferring the writ petition. The issue that arose for consideration before the Tribunal was, whether the regular service rendered by the respondents/ Tax Assistants – initially appointed in different zones should be counted towards qualifying service for the purpose of promotion to the next higher post of Senior Tax Assistants (STA), or the service rendered in the zones from which the respondents took voluntary transfer into the Delhi Region should be ignored and not considered as qualifying service merely because upon such voluntary transfer, they had accepted the condition of being placed at the bottom of the seniority list amongst Tax Assistants of Delhi Region. The Tribunal has allowed the Original Application – holding that the entire regular service rendered as Tax Assistants would count towards qualifying service for promotion as Senior Tax Assistants.

2. We have heard learned counsels and we are of the view that there is neither any merit in this petition nor the delay has been sufficiently explained. The issue raised by the petitioner is squarely covered by several decisions of this Court and other High Courts. We have dealt with the issues raised by the petitioner in ***Union of India & Ors V. Manglalzom Gangte and Ors***, W.P.(C.) No. 8063/2017, decided on 21.09.2017 which, learned counsel for the respondents submits, has been implemented by the petitioner.

3. The submission of learned counsel for the petitioner is that the

Tribunal has placed reliance on the decision in ***Union of India and Ors. v. Chet Ram Meena And Ors***, W.P.(C.) No. 6368/2015, decided on 29.10.2015. While deciding ***Chet Ram Meena*** (supra), this Court had placed reliance on the decision of the High Court of Rajasthan in ***Union of India V. Ramesh Kumar Panwar &Anr.***, Civil W.P. No. 5148/2013, decided on 26.05.2015. The submission of the petitioner Union of India is, and even when we decided ***Manglalom Gangte*** (supra) was that the issue was under consideration before the Supreme Court in CC No. 1691/2016 and that the operation of the decision of the high Court had been stayed on 01.02.2016. This Court rejected the said submission by observing as follows:

*“However, we are not impressed by this argument as we find that the Division Bench while deciding ***Chet Ram Meena*** (supra) has taken into account several other decisions including the decision of the Supreme Court itself in ***Union of India & Ors. vs. C.N. Ponnapan***, (1996)1 SCC 524 wherein Supreme Court held as follows:-*

*“.....
.The service rendered by an employee at the place from where he was transferred on compassionate grounds is regular service. It is no different from the service rendered at the place where he is transferred. Both the periods are taken into account for the purpose of leave and retrial benefits. The fact that as a result of transfer he is placed at the bottom of the*

seniority list at the place of transfer does not wipe out his service at the place from where he was transferred. The said service, being regular service in the grade, has to be taken into account as part of his experience for the purpose of eligibility for promotion and it cannot be ignored only on the ground that it was not rendered at the place where he has been transferred. In our opinion, the Tribunal has rightly held that the service held at the place from where the employee has been transferred has to be counted as experience for the purpose of eligibility for promotion at the place where he has been transferred."

*Other decisions to the same effect, taken note of by the Division Bench, were rendered in the case of **Union of India & Anr. Vs. N. Bhat**, 2003 (9) Scale 517, **Renu Mullick vs. Union of India & Anr.**, (1994) 1 SCC 373 and **Raksha Mantri and Anr. Vs. V.M. Joseph**, (1998) 5 SCC 305.*

For the aforesaid reasons, we find no reason to interfere with the impugned order and the same is dismissed."

4. Learned counsel for the petitioner submits that even the decision in **Chet Ram Meena** (supra) has been stayed by the Supreme Court on 12.01.2018 in SLP (C) No. 9643/2016.
5. On the other hand, learned counsel for the respondent – Mr. Bhardwaj makes a statement that the civil appeal preferred before the Supreme Court from the decision of the Rajasthan High Court in **Ramesh Kumar Panwar** (supra) has since been dismissed by the Supreme Court on 10.04.2019. It is also pointed out that the SLP preferred from our

decision in *Manglalom Gangte* (supra) has also been dismissed by the Supreme Court, and the same has been implemented.

6. In fact, it is pointed that the decision of this Court in *Pratibha Rani & Ors. v. Union of India & Ors.*, W.P.(C.) No. 11959/2018, decided on 02.11.2018 was assailed before the Supreme Court by the petitioners in that case, and the Supreme Court has allowed the said appeal by placing reliance on the decision in *C.N. Ponnapan* (supra).

7. Once again, learned counsel for the petitioner has sought to urge the same plea before us. In our view, the issue is squarely covered by the aforesaid decisions. We, therefore, do not find any merit in this petition. The explanation for condonation of delay is also not convincing and insufficient. Even if one were to ignore the period spent in pursuing the review petition (which was dismissed on 13.07.2018), there is no explanation for the delay thereafter.

8. Dismissed.

VIPIN SANGHI, J.

REKHA PALLI, J.

APRIL 16, 2019

N.Khanna