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

+ **W.P.(C) 7791/2019**

SHRI MAHENDRA RAM

..... Petitioner

Through: Mr. Ravi Gupta, Senior Advocate
along with Ms. Sonia A. Menon,
Mr.Sachin Jain & Mr. S. Krishna
Murthy, Advocates.

versus

**SECRETARY, GOVERNMENT OF INDIA
AND ANR.**

..... Respondents

Through: Mr. Rakesh Kumar, CGSC and
Mr.Waize Ali Noor, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

22.07.2019

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CM Nos. 32381/2019 & 32382/2019

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 7791/2019

The petitioner assails the order dated 05.07.2019 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 522/2019. The Tribunal has rejected the petitioner's Original Application. Two aspects were raised in the Original Application. The first related to the challenge to the inquiry proceedings initiated against the petitioner. The petitioner assailed the order dated 16.10.2018 whereby time

for concluding the inquiry proceedings was extended by six months. He also assailed the charge sheet dated 25.04.2017 issued to him. On the said aspect, the Tribunal has observed that the inquiry has concluded and the inquiry report is pending examination. The Tribunal has refused to interfere with the inquiry proceedings in this background. We too are not inclined to interfere with the impugned order in that regard.

The second aspect raised by the petitioner was that the respondents made ad-hoc promotions. The Screening Committee, which met on 18.10.2018 to consider ad-hoc promotions did not find the petitioner fit for promotion only on account of the pending disciplinary proceedings. The submission of the petitioner was that the respondents should have adopted the sealed cover procedure as mandated by O.M. dated 23.02.1999 issued by the DOP & T. The Tribunal observed in paragraph 9 that the OM dated 23.02.1999 just prescribed that the sealed cover procedure should be adopted even in respect of ad-hoc promotions. However, the Tribunal has held that the said rule is directory and not mandatory. The Tribunal has observed that the facility of retrospective promotion on ad-hoc basis does not exist since it is neither substantive appointment nor a regular promotion. Consequently, the Tribunal did not accept the petitioner's submission while observing that if he is exonerated, he could straightaway be promoted on ad-hoc basis.

The only submission advanced by Mr. Gupta is that the adoption of the sealed cover procedure even for making ad-hoc promotions means that the employee, if eventually exonerated, would get retrospective ad-hoc promotion. We cannot accept this submission. As rightly observed by the Tribunal, there is a distinction between regular promotion and ad-hoc

promotion, which is merely a working arrangement. Ad-hoc promotion by itself does not confer or vest the promotee with a right to claim substantive promotion or seniority in the promotion grade. An ad-hoc promotion may be reverted at any time in accordance with law. There is no right vested in the ad-hoc promotee and he has not vested right to get so promoted. Therefore, while observing that the respondents should have adopted the sealed cover procedure in terms of the O.M. dated 23.02.1999 in respect of the petitioner, we clarify that even if such a procedure had been adopted his eventual promotion – in case he is finally exonerated, would not be retrospective, i.e. from the date when his other contemporaries and juniors were so promoted on ad-hoc basis.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JULY 22, 2019

B.S. Rohella