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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4798/2016 and CM APPL. 19976/2016-(Stay), CM APPL. 19980/2016 (Additional documents)**

UNION OF INDIA & ANR.

..... Petitioners

Through: Mr.Ruchir Mishra, Mr.Sanjiv Kumar
Saxena, Mr. M.K.Tiwari,
Mr.Ramneek Mishra and
Mr.Abhishek Rana, Advocates.

versus

DEEPA SAINI

..... Respondent

Through: Respondent in person.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **14.11.2019**

1. On 27th May, 2016 this Court passed the following order:-

“Learned counsel for the petitioners submits that the Tribunal has missed the real point. The respondent was promoted to the post of Joint Director for the vacancy year 1988. She was not promoted for the year 1985 by applying the principle of comparative merit. At that time, there was no concept of bench-marking.

Consequent to a seniority dispute, a fresh seniority list was issued and a review Departmental Promotion Committee (DPC) for the period 1981 to 1988 were conducted. Consequently, the respondent was promoted as a Joint Director for the vacancy year 1985. The result was that the respondent's promotion was back dated.

There was again challenge to the seniority list resulting in preparation of a new seniority list for the years 1981-1988. The review DPC was held in 2010 and the respondent on the basis of comparative merit was promoted as a Joint Director for the vacancy year 1988. She was not promoted for the vacancy year 1985.

The learned counsel for the petitioners submits that during the years 1981 to 1988 there was no concept of either confidential reports or grading in the annual confidential reports.

The respondent had filed OA No. 1986/2010 wherein a number of prayers were made including the prayer that she should be granted promotion to the post of Joint Director w.e.f. 1985 or from the date her juniors were promoted. However, the said prayers were waived and not pressed, except the prayer that her ACR gradings should be communicated. It is submitted that as there were no ACR Gradings for the said years and what was communicated was the grading given by the selection committee or DPC. The petitioner, consequently, made representations against those gradings and the gradings were increased.

One issue which arises for consideration is whether the gradings given by the DPC or the screening committee can be considered as gradings given in the ACRs which could have been upgraded. The impugned order of the Tribunal, it is submitted proceeds on a wrong assumption. It is asserted that the respondent had earlier given up the case for promotion to the post of Joint Director from 1985. As per the 2010 review DPC, the respondent was to be promoted to the post of Joint Director for the vacancy year 1988. The respondent could not have therefore sought and prayed for another review DPC.

Issue notice, returnable on 13.09.2016.

There will be a stay on the impugned order, till the next date of hearing.”

2. The Court is informed that the Respondent has superannuated. In that view of the matter, since the relief granted by the Central Administrative Tribunal ('Tribunal') is to a limited extent, the Court affirms the said order and directs that any question of law arising from the impugned order of the Tribunal would be left open for consideration in another appropriate case.

3. It is clarified that if as a result of implementation of the impugned order of the Tribunal, the Petitioner is promoted as Joint Director with reference to the vacancies of the year 1985, it will be done on a notional basis without disturbing either the promotion or the seniority of any other person.

4. The petition is disposed of in the above terms. The interim order is vacated. The pending applications are disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 14, 2019

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