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

+ W.P.(C) 8815/2018

RAJ KUMAR GARG Petitioner

Through: Dr. N. Gautam, Adv.

versus

DELHI TRANSPORT CORPORATION Respondent

Through: Ms. Manisha Tyagi, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

08.01.2019

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The petitioner has preferred the present writ petition to assail the order dated 31.01.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 3939/2013. The Tribunal has rejected the said Original Application preferred by the petitioner wherein he had sought the benefit of 3rd MACP with effect from 09.10.2012 and refixation of his pay with all consequential benefits.

The petitioner was appointed as a conductor with the respondent DTC on 09.04.1982 on regular basis. In accordance with the ACP Scheme adopted by the respondent DTC and on completion of 12 years in service without promotion, he was granted the benefit of 1st ACP in August, 2002 and 2nd ACP, on completion of 24 years of service without any promotion in 2006. The petitioner applied for the post of Assistant Cashier in Pay Band - 1 of Rs. 5200-20200 with Grade Pay of Rs. 2800 and he was selected to that

post with effect from 15.09.2011. He was kept on probation for one year.

The petitioner claimed benefit of the 3rd MACP from the year 2012 on the ground that he had not been promoted from the post of Conductor. The Tribunal has rejected the said contention of the petitioner and, in our view, rightly so. The Tribunal has observed that if the selection of the petitioner as Assistant Cashier is treated as promotion, the same having been secured before expiry of 30 years, he would not be entitled to receive the 3rd MACP benefit. On the other hand, if the same is treated as selection, then he has left his cadre and, consequently, he would not be entitled to the 3rd ACP benefit since he did not continue to remain in the post of Conductor till the expiry of 30 years of service.

The petitioner is not in a position to dispute the aforesaid position. Consequently, we find no merit in this petition.

Dismissed.

VIPIN SANGHI, J

A. K. CHAWLA, J

JANUARY 08, 2019

N.Khanna