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

+ **W.P.(C) 10796/2016**

RAM CHANDER SHARMA Petitioner
Through **Mr. P.C. Mishra, Adv.**

versus

GOVT. OF NCT OF DELHI AND ANR Respondents
Through **Mr. Devesh Singh, ASC with**
Ms.Sukriti Ghai and Ms. Urvashi
Tripathi, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 30.01.2019

The limited grievance raised by the petitioner against the order passed by the Central Administrative Tribunal, Principal Bench (CAT) passed in OA No. 4050/2013 on 23.04.2015 is that while allowing the petitioner's said OA and directing the respondents to hold the Review DPC to consider the petitioner's case for promotion w.e.f. 06.03.1996 when his juniors were promoted, the Tribunal also directed that the respondents shall grant the promotion to the petitioner on notional basis and accordingly, revise his pensionary benefits and the arrears of pensionary benefits on actual basis.

Learned counsel for the petitioner submits that there was no occasion for the Tribunal to issue a direction that the promotion should be on notional basis or on actual basis. He submits that this aspect should have been decided by the respondents and even before review DPC was held, the

Tribunal had no occasion to issue such a direction.

Having heard the learned counsel, we are of the view that the above-said grievance of the petitioner is justified. It was for the respondents to take a call, keeping in view the facts and circumstances of the case, whether to treat the promotion as notional or actual and on that basis to determine whether the petitioner was entitled to arrears of enhanced pay on actual basis, or only on notional basis. Accordingly, we dispose of the present writ petition by modifying the direction issued by the Tribunal. The respondents should now consider the aspect whether the petitioner would be entitled to promotion on notional basis, or actual basis. The said decision be taken within next two months and communicated to the petitioner.

The petition stands disposed of accordingly.

Dasti.

VIPIN SANGHI, J

PRATEEK JALAN, J

JANUARY 30, 2019

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