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

+ **W.P.(C) 6290/2017**

MOHENDER SINGH

..... Petitioner

Through: Mr. M.K. Bhardwaj, Advocate with
Ms. Priyanka M. Bhardwaj,
Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Rajan Sabharwal, Advocate.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

% **09.01.2019**

1. On 26th July, 2017, the following order was passed by this Court:

“Issue notice, returnable on 8th November, 2017.

Initially, we were not inclined to issue notice in this writ petition as we felt that the petitioner had challenged and questioned non-grant of promotion w.e.f. 8th April, 1989. However, learned counsel for the petitioner has drawn our attention to the first order dated 4th December, 2001 by which the petitioner was granted proforma promotion as PP Grade-I w.e.f. 1st June, 1991 but seniority was assigned below Mr.B.P.Dutta. Thereafter, the respondents issued another notice/order dated 16th January, 2007 stating that the petitioner should be promoted as PP Grade-I w.e.f. 8th April 1989 and his seniority would be just above Mr.B.P.Dutta. Still thereafter, the respondents have issued order dated 29th January, 2007 whereby the petitioner was given seniority at

serial No.23A below Mr.K.C.Jain, which meant a jump over 50 officers. The petitioner was thereafter considered for promotion as per the revised seniority in the departmental promotion committee meeting held on 23rd April, 2008 and was appointed as regular Assistant Security Commissioner w.e.f. 4th June, 2004 against the Panel for the year 2001. Thereafter, the petitioner got promoted to the senior scale w.e.f. 17th October, 2008.

We have made it clear to the learned counsel for the petitioner that we are not re-examining the seniority fixed vide letter /order the dated 29 January, 2007. In fact we have some reservations on the orders passed on 4th December, 2001 and then 16th January, 2007 and the 29 January, 2007, for these had the effect of granting retrospective promotions to the petitioner from 1991 and then from 1989.

We prima facie believe that the petitioner should not be permitted and allowed to question the seniority position at serial no.23A allotted to him vide letter dated 29th January, 2007 in the combined seniority list on merger of Inspector (Prosecution), (Fire) and (Executive). However, the question which would still remain open and requires consideration relates to entitlement to promotion in view the seniority at serial no.23A. The respondents would clarify on the said aspect in the counter affidavit which would be filed within six weeks. Rejoinder, if any, may be filed within six weeks after counter affidavit is served.

Dasti.”

2. In the affidavit now filed by the Respondents, it stands confirmed that the seniority of the Petitioner has been re-fixed and it is at Serial No. 23 A in the rank of Inspector, Grade 1.

3. The only remaining grievance of the Petitioner is that the benefits

consequential upon the re-fixation of the seniority have not been granted. On this, learned counsel for the Respondent joins issue.

4. The Petitioner, in particular, states that the regular pay scale in the next promotional pay scale of Assistant Security Commissioner with effect from the date on which his juniors were so promoted and to which also he would be also be entitled as a result of the re-fixation of his seniority has not been granted.

5. On this aspect, learned counsel for the Petitioner states that he will file an affidavit, not later than 11th February, 2019, with an advance copy to the learned counsel for the Respondent may file a rejoinder, thereto, before the next date of hearing.

6. List on 28th February, 2019.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 09, 2019

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