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

+ W.P.(C) No.9415/2017 & C.M. No.38324/2017, C.M. No.38327/2017

UNION OF INDIA AND ORS

..... Petitioners

Through

Mr.Ruchir Mishra, Adv. with
Mr.Mukesh Kumar Tiwari, Adv. &
Mr.Abhishek Rana, Adv.

versus

O S PREMCHANDRAN

..... Respondent

Through

Nemo.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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25.03.2019

1. The Union of India has assailed the order dated 11.01.2017 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in Original Application No.4210/2013. The Tribunal has allowed the Original Application and directed the petitioners herein to grant the grade pay of Rs.4600/- to the respondent with effect from the date when his junior Smt.Papri Sen Gupta was granted the same grade pay. He has also been granted arrears arising from the said increase in the grade pay.

2. The admitted position is that the respondent while working as an Assistant, was senior to Smt.Papri Sen Gupta. Smt.Papri Sen Gupta was granted the higher grade pay under the MACP Scheme on completion of ten years of service since she did not earn any regular

promotion during the said period. On the other hand, the respondent had earned three regular promotions after his appointment. Consequently, he was not granted benefit of the MACP Scheme. After the upgradation of her grade pay, Smt.Papri Sen Gupta, started receiving higher pay than the respondent despite being his junior. It is then that the respondent agitated his claim and sought upgradation of pay. The Tribunal while allowing the Original Application, placed reliance on the judgment of this Court in ***Sh.Tejbir Singh Dagar & Ors. Vs. Union of India & Ors.*** WP(C) No.7840/2012 decided on 03.01.2014. When the present writ petition came up before this Court on 27.10.2017, this Court required the petitioner to disclose whether the decision in ***Sh.Tejbir Singh Dagar (supra)*** had been assailed before the Supreme Court. Today, Mr.Mishra, learned counsel states that the said decision has been accepted by the petitioner i.e. Railway Department and no SLP was preferred against the said decision. Mr.Mishra, learned counsel has, however, sought to place reliance on Clauses 10 & 20 of the MACP Scheme which read as follows:-

“10. No stepping up of pay in the pay band or grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP Scheme.”

20. Financial upgradation under the MACPS shall be purely personal to the employee and shall have no relevance to his seniority position. As such, there shall be no additional financial upgradation for the senior employees on the ground that the junior employee in the grade has got higher pay/grade pay under the MACPS.”

3. We are not inclined to examine the aforesaid submission of the petitioners in view of the fact that in *Sh.Tejbir Singh Dagar (supra)*, a similar averment raised was considered and rejected by this Court. Therefore, so far as this Court is concerned, the issue has attained finality in Sh. *Tejbir Singh Dagar (supra)*.

4. In view of the aforesaid, we dismiss the present writ petition along with pending applications.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 25, 2019/aa