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

Date of decision: 26.07.2019

+ W.P.(C) 13171/2018 & CM APPLN. 51120/2018

NTPC EXECUTIVES FEDERATION OF INDIA (NEFI)

..... Petitioner

Through Mr.Vinay Kumar Garg, Sr. Adv. with
Mr.Achal Gupta & Ms.Annie Rais,
Adv.

versus

NTPC LTD.

..... Respondent

Through Mr.I S Alag, Sr. Adv. with Mr.Adarsh
Tripathi, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

1. Vide the present petition, the petitioner seeks direction as under:-

- a) Pass a Writ of Certiorari or any other appropriate Writ direction or order thereby striking down the arbitrary and cryptic order dated 25th June 2018; and
- b) Pass a Writ of Mandamus or any other appropriate Writ, direction or order thereby directing the respondent to declare

the total number of vacancies in each category of executives before the promotion process begins; and

- c) Pass a Writ of Mandamus or any other appropriate Writ, direction or order thereby directing the respondent to lay down clear policies for moderation of PMS ratings wherein the concerned executive may also have a right to raise a grievance in relation to the said moderation;
- d) Pass a Writ of Mandamus or any other appropriate Writ, direction or order thereby directing the respondent to lay down specified objective/guidelines for the process of allocation of CPC marks for promotability of an executive in the grade E-1 to E-5 in the letter and spirit of Statement of Company Policy Regarding Promotion of Executives (Annexure-14); and
- e) Pass a writ of mandamus or another appropriate Writ, direction or order thereby directing the respondent to lay down specified objective/guidelines for the process of promotion of female executives who have availed maternity leaves in the letter and spirit of Statement of Company Policy Regarding Promotion of Executives (Annexure-14); and

f) Pass a Writ of Mandamus or any other appropriate Writ, direction or order thereby directing the respondent to review the promotions passed for the year 2018 in terms of the guidelines /policy

2. In the counter affidavit filed by the respondent, it is stated that the petitioner is the Employees Association of the respondent Company which is in place for more than 30 years. In this regard, it is to be considered that the Association has always been aware of the policies issued from time to time and the grievances raised in the present petition are being raised for the very first time, which are completely vague in nature.

3. Further stated that the petitioner Association initially had preferred W.P.(C) No. 3145/2018 on similar lines agitating same cause of action. This Court vide order dated 03.04.2018 disposed of the said petition by observing that the opportunity of hearing be provided to the petitioner herein. Accordingly, the petitioner Association was duly called for hearing by the respondent Company vide internal office order dated 23.05.2018. In furtherance of the office order dated 23.05.2018 of the respondent Company, the Committee, which is duly comprised of the members of the petitioner Association, held more than 6 meetings. All the issues as raised by the

petitioner were duly taken note of and in furtherance of the same, recommendations dated 07.08.2018 were prepared. The Said recommendations duly took into consideration all the genuine grievances of the petitioner Association and also suggested that certain rectificatory measures could be taken. The report was prepared in consultation with the petitioner Association and all the issues as raised are duly considered in the said report.

4. It is further stated that in furtherance of the report dated 07.08.2018, the respondent Company has accordingly started implementing the suggestions and same is a gradual process which would be reflected in due course of time.

5. It is not in dispute that the following recommendations are made by the sub- Committee on the issues related to CPC-2018:

“RECOMMENDATIONS

Considering the number of aberrations observed through the representative samples examined by the committee, recommendations of the Sub committee are as under:-

- 1. Corrective actions should be taken to resolve anomalies/discrepancies identified by the sub committee.*
- 2. Appropriate corrective action should be taken through policy Interventions to avoid repetition of anomalies/discrepancies observed in CPC/RPC 2018,*
- 3. Promotions should not be denied to the deserving candidates based on safety, related issues, unless his/her*

role is established by any enquiry committee, honouring the principle of natural Justice.

4. Keeping In view the number of dropped cases in CPC/RPC-2018 and growing number of executives due for promotion in coming years, promotion percentage should be suitably increased.”

6. Learned counsel appearing on behalf of respondent submits that Company has already started notifying the locations along with the vacancies of posts available for promotion and the said concern stands addressed. In these circumstances and in view of the above discussion, nothing survives in the matter which requires interference of this Court.

7. Accordingly, while disposing of the present petition, I hereby direct the respondents to take final decision on the recommendations mentioned above within a period of six months or prior to the promotions, whichever is earlier from the receipt of this order.

8. The petition is, accordingly, allowed and disposed of.

9. Pending application stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

JULY 26, 2019/ab