

\$~Suppl.- 31

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

+ W.P. (C) 2403/2021, CM APPL. 6991/2021

EX. HC/GD MAHESH PRASADPetitioner
Through: Mr. Om Prakash Aggarwal, Advocate

Versus

UNION OF INDIA AND ORS.Respondents
Through: Mr. Anil Kaushik, CGSC

% Date of Decision: 22nd February, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

MANMOHAN, J (Oral):

CM APPL. 6991/2021 (Exemption) in W.P. (C) 2403/2021

Exemption allowed, subject to all just exceptions.

W.P. (C) 2403/2021

1. The petition has been heard by way of video conferencing.
2. Present petition has been filed seeking a number of prayers. However, learned counsel for the petitioner prays that a similar order as passed by a Division Bench in W.P.(C) No.6437/2019 dated 30th May, 2019 be passed in the present writ petition. He clarifies that neither the judgment

and order dated 30th May, 2019 in W.P.(C) No.6437/2019 nor the judgments referred to in the said order have been challenged before the Supreme Court by the respondents.

3. Issue notice.

4. Learned counsel for the respondents accept notice. Learned counsel for the respondents state that in similar matters, notices have been issued by the Supreme Court in the condonation of delay and special leave petitions. They, however, candidly state that there is no stay in the said special leave petitions.

5. It is pertinent to mention that the petitioner has preferred the present writ petition to primarily seek a mandamus to the respondents to grant the benefit of the second financial upgradation under the MACP Scheme in the Pay Band of Rs.9300-34800 with Grade Pay of Rs.4200 w.e.f. 01st January, 2006 and wherever 20 years have been completed till the date the petitioner's voluntarily retired on 30th November, 2008 along with consequential benefits including arrears. The petitioner's claim is based upon the decision of the Supreme Court in the case of ***Union of India and Ors. Vs. Balbir Singh Turn & Anr.***, Civil Appeal Diary No.3744/2016 along with other cases decided on 08th December, 2017. The petitioner also places reliance on the decision of the Division Bench of this Court in ***Sunil Kumar Tyagi vs. Union of India & Anr.***, W.P. (C) No.3549/2018 decided on 01st May, 2019.

6. As admittedly there is no interim order passed by the Supreme Court in any of the special leave petitions filed by the Union of India in similar matters, we dispose of the present writ petition in similar terms as passed in W.P.(C) No.6437/2019 i.e. a direction to the respondents to consider the

petitioner's claim in the light of the judgments in *Union of India and Ors. Vs. Balbir Singh Turn & Anr. (supra)* and *Sunil Kumar Tyagi vs. Union of India & Anr (supra)* as well as *Union of India & Ors. vs. M.V. Mohanan Nair, (2020) 5 SCC 421* and to dispose of the representations of the petitioners positively within twelve weeks from today. It is clarified that in the event the Supreme Court varies or set asides the order passed by the Division Bench in *Sunil Kumar Tyagi vs. Union of India & Anr (supra)* and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court.

7. With the aforesaid direction, the present writ petition along with pending application stand disposed of.

8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

FEBRUARY 22, 2021
PKB