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

+ W.P. (C) 2472/2021 & CM APPLs. 7250-51/2021

SMT SURESH SINGHALPetitioner

Through: Dr. K.S. Chauhan, Advocate

Versus

UNION OF INDIA & ORS.Respondents

Through: None.

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Date of Decision: 23rd 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):

1. The petition has been heard by way of video conferencing.
2. Present writ has been filed challenging the Order dated 19th November, 2020 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in Original Application No. 1836 of 2020. Petitioner also seeks a direction to the Respondents to grant notional benefit of the promotion with consequential benefits of the Select List dated 26th February, 2020 prepared by the Union Public Service Commission or from the date of occurrence of the vacancy in the newly created post of Administrative Officer.
3. Learned Counsel for the Petitioner contends that though the Petitioner was eligible for promotion, yet there was delay in convening

the DPC which was convened only on 26th February 2020. He states that the Petitioner figured at Serial No. 1 in the panel recommended by the DPC. He, however, states that before any tangible step could be taken on the basis of the recommendation of DPC, the petitioner retired on 29th February 2020. The competent authority is said to have accorded approval for promotion on 16th March, 2020 only.

4. Leaned counsel for the petitioner submits that the respondent did not hold timely DPCs, resulting in the delay in conducting the selection process for the promotion by the respondents and the Petitioner cannot be made to suffer due to the lapses on the part of the respondents.

5. In support of this submission, he relies upon the judgment of the Supreme Court in ***Major General H.M. Singh Vs. Union of India, (2014) 3 SCC 670***. He also relies upon the judgment of the Supreme Court in ***P. Sudhakar Rao vs. U. Govinda Rao*** reported as ***(2013) 8 SCC 693***.

6. It is well settled law that a retired person cannot be promoted except when an officer junior to him had been promoted with effect from a date prior to retiree's retirement. In the present case, the official junior to the petitioner (who was second in the select list dated 26th February, 2020) was promoted by the Ministry order dated 16th March, 2020 i.e. after the retirement of the petitioner.

7. Further, the judgment of the Supreme Court in ***Major General H.M. Singh vs. Union of India, (2014) 3 SCC 670*** is inapplicable to the facts of the present case as in the said case the promotion was granted to an officer who was on extended service. Since in the present case, the petitioner had admittedly retired on the date the Department of Personnel

notified the names of the promotees, the petitioner is not entitled to any relief.

8. This Court is further of the view that the judgment of the Supreme Court in ***P. Sudhakar Rao*** (*supra*) is inapplicable to the present case as it is settled law that seniority cannot be claimed from a date when the incumbent is yet to be borne in the cadre. In fact, in ***K. Meghachandra Singh & Ors. Vs. Ningam Siro & Ors., (2020) 5 SCC 689***, the Supreme Court held, “*At this stage, we must also emphasise that the Court in N.R. Parmar need not have observed that the selected candidate cannot be blamed for administrative delay and the gap between initiation of process and appointment. Such observation is fallacious inasmuch as none can be identified as being a selected candidate on the date when the process of recruitment had commenced.....In other words, only on completion of the process, the applicant morphs into a selected candidate and, therefore, unnecessary observation was made in N.R. Parmar to the effect that the selected candidate cannot be blamed for the administrative delay.*”

9. Consequently, this Court does not find any illegality or perversity in the impugned order. Accordingly, present writ petition and applications are dismissed.

10. 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 23, 2021
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