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

+ W.P.(C) 3982/2021

SURESH SINGH Petitioner

Through: Mr.A.K. Bhakt, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr.J.K. Singh and Mr.Amit Kumar,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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07.05.2021

[VIA VIDEO CONFERENCING]

1. This writ petition, under Article 226 of the Constitution of India, impugns the order dated 25th September, 2020 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi, of dismissal of O.A. No. 1385/2020 preferred by the petitioner.

2. The petitioner superannuated from the service of the respondents Indian Railways, on 31st August, 2018, from the post of Senior Assistant Financial Advisor; post retirement, he filed the O.A, from which this petition arises, contending that he acquired eligibility to be considered for promotion to the next post of Group 'A'/Junior Scale in Indian Railway Accounts Service (IRAS), in the year 2016; though there was an obligation on the part of the respondents, to convene the Departmental Promotion Committee (DPC) for promotion of the petitioner, but the DPC was not

convened for the financial years 2016-17 and 2017-18 and was held ultimately, only on 28th October, 2019 but by which time the petitioner had already superannuated. The relief, in the O.A, of directing the respondents to consider the petitioner for promotion, in the financial years 2016-17 and 2017-18, was claimed.

3. CAT has dismissed the O.A, reasoning that (i) it is well settled that mere acquisition of qualification for promotion does not confer any right to be promoted and the right, if at all, is only to be considered as and when promotions are effected; (ii) the calendar framed by Department of Personnel & Training, providing for DPCs to be held regularly, is neither mandatory nor entails any consequences and does not confer any right on the employees – it is merely advisory and a step towards good administration; (iii) the failure to convene DPC in a particular year, cannot be termed as illegal or a serious lapse on the part of the administration; (iv) DPC is held, as per administrative exigencies and convenience; (v) Supreme Court has repeatedly, including in *Union of India Vs. K. K. Vadhera*, 1989 Supp (2) SCC 625 held that there can be no retrospective promotion; (vi) the retired employee can be extended the benefit of notional promotion only if any employee junior to him was promoted with effect from the date anterior to the date of retirement of such senior employee; and (vii) the petitioner, who superannuated on 31st August, 2018, had not pleaded that any employee junior to him was promoted to the post of Group 'A'/Junior Scale in IRAS, before that date and thus the question of granting any relief to the petitioner did not arise.

4. This writ petition was drafted, without even studying the complete impugned order, as would be obvious from the order dated 25th March,

2021, when this petition had first come up before us, and in pursuance to which order the counsel for the petitioner has obtained a complete copy of the order and placed the same before us.

5. The only arguments of the counsel for the petitioner are, that (i) CAT has decided the O.A. hastily; (ii) the representation made by the petitioner was neither considered by CAT nor did CAT direct consideration thereof by the respondents; (iii) the petitioner was not even given an opportunity to place before CAT, the order dated 31st August, 2017 of CAT, Ernakulam Bench, in O.A. No. 180/00564/2017 titled ***P. Mathew Varghese vs Union of India*** and which order is now filed as Annexure P-9 to the writ petition.

6. We have perused the said order and find that the applicant P. Mathew Varghese therein had approached CAT, prior to his superannuation and had sought direction for holding of DPC and which direction was indeed issued. As distinct therefrom, the petitioner herein approached CAT after more than 2 years of his superannuation and when still in service and though eligible for promotion in the year 2016, till his superannuation on 31st August, 2018, did not seek the holding of DPC.

7. As far as the argument of the petitioner, of CAT having acted hastily, is concerned, all that needs to be stated is that no litigant has a right that his litigation should continue for a minimum of few years or few months and if the Courts/Tribunals find that the claim made is devoid of any merit, the Courts/Tribunals are entitled to and in fact ought to nip such useless and misconceived litigation, in the bud, so that the valuable time of the Courts/Tribunals can be spent on more deserving contentious matters.

8. As far as the argument of the counsel for the petitioner, that the representation of the petitioner was not considered and/or that CAT ought to

have disposed of the O.A. directing the representation to be considered, is concerned, once the petitioner, after making the representation, had approached CAT setting out the same facts and on the same facts an order has been rendered not finding any merit therein, the question of deciding the representation or directing decision thereof does not arise.

9. There is no merit in the petition.

Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

MAY 7, 2021

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