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

Date of Decision: 16.11.2021

+ W.P.(C) 12856/2021 & CM 40478/2021

EX HCGD AMI LAL

..... Petitioner

Through Mr.Omprakash Agarwal, Adv.

versus

UNION OF INDIA AND OTHERS

..... Respondents

Through Mr.Avnish Singh, Sr. Panel
counsel for UOI with
Ms.Pushplata Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

The petition has been heard by way of video conferencing.

1. 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 on 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.
2. Issue notice.
3. Learned counsel for the respondents accepts notice. Learned counsel for the respondents states that in similar matters notices have

been issued by the Supreme Court in the application for condonation of delay and Special Leave Petitions. He, however, candidly state that there is no stay in the said Special Leave Petitions.

4. It is pertinent to mention that the petitioner has preferred the present writ petition primarily to seek a writ of mandamus directing 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 petitioners' voluntarily retired on 30th June, 2006 or the dates mentioned in the prayer clause 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. He emphasises that SLP (Civil) No. 35888/2019, *Union of India Vs. Sunil Kumar Tyagi* has been dismissed by the Supreme Court vide order dated 15th November, 2019 and even a Review Petition against the said order has also been dismissed on 27th July, 2021.

5. 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 passed in *Union of India and Ors. Vs. Balbir Singh Turn & Anr.* (supra) and *Sunil Kumar Tyagi* (supra) as well as *Union of India & Ors. vs. M.V. Mohanan Nair*, (2020) 5 SCC 421 and dispose of the representation of the petitioner 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 the present petition and/or any other similar matter, then the present order shall abide by the order(s) of the Apex Court.

6. With the aforesaid direction, the present writ petition along with pending application stands disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

NOVEMBER 16, 2021/RN