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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 29.01.2024***

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W.P.(C) 673/2014

UNION OF INDIA & ORS.

..... Petitioners

Through: Mr. Jaswinder Singh, Advocate.

versus

VINOD KUMAR

..... Respondent

Through: Advocate (*appearance not given*)
along with petitioner in person.**CORAM:****HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MR. JUSTICE RAJNISH BHATNAGAR****REKHA PALLI, J (ORAL)**

1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 12.11.2013 passed by the learned Central Administrative Tribunal in O.A. No. 2708/2012.
2. Vide the impugned order, the learned Tribunal has allowed the original application preferred by the respondent by setting aside the order dated 21.01.2011 passed by the petitioner - Divisional Railway Manager ('DRM'), whereunder, the respondent's request for grant of benefits envisaged under the cadre restructuring held in the year 1993 and in the year 2003 to the post of Grinder-II was rejected. The said order rejecting the respondent's request was passed on the premise that he was holding the said post of Grinder-II w.e.f 14.05.1991 only



by way of a temporary local arrangement (TLA). The learned Tribunal has, consequently, held that the respondent will be considered as Grinder-II w.e.f. 14.05.1991 for all purposes and, has directed the petitioner to grant him all benefits of the two cadre restructuring exercises w.e.f., 01.01.1983 and 01.01.2003 respectively alongwith all consequential benefits including promotion. The monetary benefits have, however, been restricted w.e.f. 19.03.2008, i.e., the date on which the respondent had made his first representation to the petitioners.

3. In support of the petition, learned counsel for the petitioner submits that the learned tribunal has failed to appreciate that the respondent who has joined service as Khalasi on 15.04.1981 was, thereafter, based on trade test held on 19.05.1986 promoted as a Grinder - III. He submits that the respondent continued to be a Grinder – III and was posted as a Grinder-II by way of a temporary local arrangement and was, therefore, not entitled to receive the benefits applicable to the post of Grinder-II. Without prejudice to his aforesaid plea that the respondent was not entitled to be granted any benefits of Grinder-II, he submits that in any event, the learned Tribunal could not have directly extended all the benefits of cadre restructuring of the post of Grinder-II to the respondent without appreciating the fact that the respondent was required to meet the other laid down parameters.

4. On the other hand, learned counsel for the respondent supports the impugned order and submits that the respondent having continued on the post of Grinder-II from 14.05.1991 till his superannuation on



30.06.2015, the petitioners cannot now urge that he was working as Grinder-II only on a temporary basis. He further submits that the fact that after such long uninterrupted service as Grinder-II, the petitioners themselves not only included his name in the seniority list of Grinders-II but even his status was shown as permanent in this list. He, therefore, contends the learned Tribunal was justified in directing that the benefits of both the cadre restructuring alongwith all consequential benefits including promotion be extended to him w.e.f., 01.01.1983 and 01.01.2003 respectively.

5. Having considered the submissions of learned counsel for the parties and perused the records, we find absolutely no reason to differ with the learned Tribunal's conclusion that the respondent had to be treated as a regular Grinder-II w.e.f. 14.05.1991 and was, therefore, entitled to receive the benefits under two exercises of cadre restructuring qua the post of Grinder-II. We may also note that though the respondent was denied benefits under the cadre restructuring applicable to the post of Grinder-II, he was granted benefits under the MACP scheme by treating him as a Grinder-II. Once the petitioners themselves treated the respondent as a Grinder-II, not only by depicting him as a permanent Grinder-II in the seniority list but also by granting benefits under the MACP on the same premise that he was a Grinder-II, they cannot be permitted to urge that the respondent could not be treated as a Grinder-II for the purposes of extending benefits under the cadre restructuring.

6. We, however, find merit in the submission of the learned counsel for the petitioners that the consideration of the respondent for



grant of consequential benefits including promotion as directed in the impugned order could not be automatic and had to be only subject to his meeting the laid down parameters and are, therefore, modify the impugned order to this extent. Learned counsel for the respondent fairly submits that he has no objection to this modification of the impugned order.

7. For the aforesaid reasons, the writ petition is disposed of by modifying the impugned order and directing that the consideration of the respondent for consequential benefits including promotion will be subject to his screening by the concerned Board/Committee as per the laid down parameters. The said consideration in terms of the impugned order will be carried out within a period of 8 weeks from today. It is, however, clarified that while screening the respondent no. 2 for grant of benefits under the impugned order, the petitioners will treat him as holding the post of Grinder-II w.e.f. 14.05.1991 on a regular basis.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 29, 2024/_p