

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

% *Date of decision: May 09, 2023*

+ **W.P.(C) 6074/2023, CM APPL. Nos. 23860/2023 (stay) & 23862/2023 (addl. Doc.)**

EMPLOYEES STATE INSURANCE CORPORATION,
THROUGH ITS DIRECTOR GENERAL Petitioner

Through: Mr. Shlok Chandra, Mr. Gautam
Mishra and Mr. Keshav Garg,
Advocates.

versus

SH RANDHIR PRASAD GUPTA & ORS. Respondents

Through: Mr. S.M. Arif, Mr. S.M. Aatif and Ms.
Shabnam Perween, Advocates for R-1
& R-2.

Mr. Himanshu Pathak, SPC with Mr.
Vedansh Anand, Central Govt.
Pleader and Mr. Krishna Kumar, Adv.
for R-3/UOI.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. 23861/2023

1. Exemption allowed, subject to all just exceptions
2. Application stands disposed of.

W.P.(C) 6074/2023, CM APPL. Nos. 23860/2023 (stay) & 23862/2023 (addl. Doc.)

3. The challenge in the Writ Petition is to an order dated December 22, 2022, whereby the Tribunal has disposed of the Original Application filed by the respondents by stating as under:

“(1) The respondents shall give the applicants notional

promotion, if their juniors have been considered in the same DPC of 2012-13.

(2) All the consequential benefits, after the date of retirement but prior to that from the due date and actual notional promotion is given, notional benefits will be given, within a period of four months from the date of receipt of a certified copy of this order.

There shall be no order as to costs.”

4. The directions given by the Tribunal contemplate the respondents are entitled to notional promotion, if any juniors have been considered in the DPC in the year 2012-2013. Such an exercise has to be carried out by the petitioner. The directions presuppose a junior having been considered in the DPC of 2012-2013.
5. But the direction is at variance with the observation of the Tribunal in para 9 of the impugned order (last three lines), wherein the Tribunal has said:

“It is needless to say that if none of the juniors to the applicants are promoted, the applicants are not entitled to get promotion.”

6. Meaningfully read, the respondents shall be entitled to notional promotion, if their juniors have been promoted in the DPC of 2012-2013.
7. Subject to the aforesaid clarification of the order of the Tribunal dated December 22, 2022, the Writ Petition is disposed of. Pending applications also stand disposed of.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

MAY 09, 2023/akc