



\$~4

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

% Date of Decision: September 22, 2023

+ W.P.(C) 12221/2023

**EMPLOYEES STATE INSURANCE CORPORATION
THROUGH ITS DIRECTOR GENERAL**

..... Petitioner

Through: Mr.Shlok Chandra, Standing Counsel
with Mr.Saksham Jain and
Mr.Shubhanshu Mishra, Advocates.

versus

INDER DUTT SHARMA & ORS.

..... Respondents

Through: Mr.S.M. Arif, Mr.S.M. Aatif and
Ms.Shabnam Perween, Advocates for
respondent No.1.
Mr.Ashok Kr.Kashyap, Sr.Panel
Counsel with Mr.Kabir Kr.Hazarika,
G.P. for respondent No.5.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO (ORAL)

CM APPL. 48009/2023

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 12221/2023 & CM APPL. Nos.48008 & 48010/2023

1. The challenge in this writ petition is to an order dated May 12, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi



(‘Tribunal’, for short) in O.A. 3450/2015, whereby the Tribunal while allowing the OA in paragraph No. 9 has stated as under:

“9. Having considered the legal position involved in the present case, we hereby pass the following directions:-

(i) The respondents shall give the applicants notional promotion, if their juniors were promoted. They shall also be promoted from the date on which the juniors were promoted.

(ii) 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.”

2. At the outset, Mr. S.M. Arif, Advocate appearing for the private respondents would submit that the issue is no more *res-integra* in view of the judgment of this Court in the case of ***Employees State Insurance Corporation Through Its Director General v. Sh.Randhir Prasad Gupta & Ors., W.P.(C) No. 6074/2023*** decided on May 09, 2023 wherein this Court has in paragraphs No.4 to 7 stated as under:

“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.”

3. Mr.Shlok Chandra, learned Standing Counsel appearing for the petitioner concedes that the respondents herein are similarly placed like the respondents in the aforesaid case i.e. **Employees State Insurance Corporation Through Its Director General v. Sh.Randhir Prasad Gupta & Ors.**(supra).

4. If that be so, and having seeing the directions given by the Tribunal, we do not see any reason to interfere with the impugned order. The writ petition is dismissed.

V. KAMESWAR RAO, J.

MANMEET PRITAM SINGH ARORA, J.

SEPTEMBER 22, 2023/v