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

% Date of Decision: December 12, 2023

\+ W.P.(C) 15914/2023

SH. V. B. SADAWARTE ..... Petitioner
Through: Mr.Bimal Kumar Berera, Advocate

versus

UNION OF INDIA AND ANR. ..... Respondents
Through: Mr.Keshav Sehgal, Mr.Jatin Singh, Mr.Shivam Gaur and Ms.Ramya Soni, Advocates.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

1. The present petition has been filed with the following prayers:-

"a) Issue a writ of certiorari or any other writ, order or direction in the nature of certiorari quashing the impugned Judgement and Order dated 13-01-2023 in OA No 221/2016 as the Hon'ble Tribunal has again referred the case back to Respondents for consideration without deciding it on merit and the respondents have again rejected the claim of the Petitioner.

b) To quash the order passed by the Hon'ble Tribunal dt 26-07-23 in CP NO 410/2023 dismissing the C.P only on the ground that the order dt 16-05-2023 passed by the respondents reaches the criteria of a reasoned and speaking order and allow the O.A."

2. Learned counsel for the petitioner submits that the OA filed by four

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applicants including the petitioner herein was decided vide order dated January 13, 2023 wherein the Tribunal has in paragraph 7 stated as under:

> *"7. In our considered view, the stepping up pay as provided for in Fundamental Rules is to be resorted, on certain conditions, if an employee junior starts getting higher pay. There are elaborate instructions governing the subject of stepping up of pay. While we appreciate that there may be Senior Accountants drawing less salary than their junior, each and every claim has to be considered on the basis of its own facts and merits. Moreover, stepping up of pay is purely personal in nature. However, the instant case has been filed by the association with three other applicants in representative capacity who are said to be aggrieved. This OA has been pending for the last seven years. Accordingly, we dispose of the OA after taking into consideration the submissions made by the learned counsel and on the basis of pleadings on record with a direction to the respondents that, in terms of the prayer of the applicant association, the case of all such Senior Accountants who are drawing less salary than their juniors be examined. While conducting such an examination. besides relying upon the Rules and instructions, they shall also give due weightage and consideration to the judgments of the Madras Bench of this Tribunal and the Hon'ble High Court of Judicature at Madras referred to in the preceding paragraph of this order, and be bound by the directions/observations contained therein. The persons so aggrieved, as also the association which is applicant No.1, shall also be at liberty to file a fresh comprehensive representation agitating their grievances, and while taking a decision on such a representation, the decision taken on the earlier representation and conveyed by order dated 12.09.2014 shall not be allowed to influence the fresh decision in the matter. The Competent Authority amongst the respondents shall ensure compliance of these directions by passing an appropriate order within a period of 12 weeks from the date of receipt of a certified copy of this order."*

3. Aggrieved with the non-compliance of the order by the respondents,

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the petitioner had filed a contempt petition being C.P. No.410/2023 which was disposed of vide order dated July 26, 2023.

4. The submission of Mr. Berera is that the respondents herein have not considered the directions of the Tribunal while passing a fresh order. He submits that they should give due weightage and consideration to the judgments of the Madras Bench of this Tribunal and the High Court of Judicature at Madras but the impugned order which has been passed on May 16, 2023 does not really consider the judgments.

5. On this, Mr. Sehgal appearing for the respondents would draw our attention to paragraph 5(vi) of the order dated May 16, 2023 wherein stand in respect of the judgment(s) has been taken by the respondents to deny the benefit of the said judgments in favour of the petitioner herein. That apart, the Tribunal has also rejected the contempt petition herein by stating that the order dated May 16, 2023 passed by the respondents reaches the criteria of a reasoned and speaking order.

6. We are of the view that in the facts of this case, no interference with the impugned order is called for. Appropriate shall be for the petitioner to challenge the order dated May 16, 2023 in accordance with law.

7. The petition is dismissed.

8. At this stage, Mr. Berera submits that the Tribunal be directed that if any petition is filed, the same be disposed of at an early stage. Liberty is granted to the petitioner to make such a request to the Tribunal.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 12, 2023/v

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