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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: December 22, 2023

+ W.P.(C) 16697/2023
JAGMOHAN MEENA

..... Petitioner

Through: Mr.M.K.Bhardwaj, Mrs.Priyanka
M.Bhardwaj and Mr.Arun Prakash,
Advocates

versus

MUNICIPAL CORPORATION OF
DELHI AND ORS

..... Respondents

Through: Ms.Saroj Bidawat, Standing Counsel,
MCD

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO, J. (ORAL)

CM APPL. No.67251/2023 (exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 16697/2023

1. The challenge in this writ petition is to an order dated December 04, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter, referred to as the 'Tribunal') in CP No.476/2023 in OA No.1027 whereby the Tribunal has dismissed the contempt petition by holding that the respondents have complied with the order of the Tribunal



dated April 17, 2023 inasmuch as they have issued a speaking order dated September 15, 2023.

2. The submission of Mr.Bhardwaj, learned counsel for the petitioner is that the order dated September 15, 2023 is not a compliance of the order passed by the Tribunal on April 17, 2023.

3. We find that the Tribunal has reproduced the order dated April 17, 2023 more particularly in paragraph 5 which reads as under:

“5. Keeping in view the limited prayer of the applicant, we hereby direct the respondents to consider the pending representation dated 26.09.2022 of the applicant and dispose of the same by passing a reasoned and speaking order within a period of three months from the date of receipt of a certified copy of this order.”

Whereas paragraph 7 of the order dated September 15, 2023, which has been produced by the Tribunal, reads as under:

"7. Therefore, the Competent Authority has considered the representation of Applicant dated 26.09.2022 along with other record(s) of the case in its entirety. The Competent Authority has viewed that the ad hoc promotion to the post of AE(C) has already been granted to the applicant w.e.f. 23.07.2009 (i.e. the date of ad hoc promotion to the post of AE(C) of his juniors) vide O.O. No.AO/CED/SO-III/MCD/2023//GF-16/1105 dated 07.06.2023. The Competent Authority has also viewed that Review of the original DPC dated 23.03.2006, 14.06.2007, 02.08.2007 and 02.03.2009 (earlier reviewed in the year 2011, after that on 22.09.2015 and 215.07.2019) and thereafter regular DPC for the vacancy year 2009-10 and onwards to the post of Assistant Engineer (Civil) is under process and end result of Review/Regular DPC would decide the regular promotion of the applicant to the post of Assistant Engineer (Civil) along with his seniors and juniors and accordingly, the



applicant would be considered for ad hoc promotion to the next post i.e. Executive Engineer (Civil) as per rules and guidelines issued by the DoP&T in this regard."

4. It is also the submission of Mr. Bhardwaj that the respondents have not granted promotion to the petitioner despite the fact that they have promoted a junior to the post of Executive Engineer (Civil) on *ad hoc* basis.
5. We are of the view this plea of the petitioner must necessarily be urged by way of fresh proceedings before the Tribunal. This we say so because of the limited direction given by the Tribunal to decide the representation of the petitioner by way of a reasoned and speaking order.
6. At this stage, Mr. Bhardwaj, submits that fresh proceedings be directed to be decided by the Tribunal at an early date. Nothing precludes the petitioner to make such a submission before the Tribunal for consideration.
7. All the pleas of the petitioner are left open to be urged by him before the Tribunal.
8. The petition is dismissed.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

DECEMBER 22, 2023/v