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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 709/2024**
PRITAM DAHIYA AND ANR Petitioners
Through: Appearance not given.
versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Manish Mohan, CGSC with Mr.
Jatin Teotia, Advocates for UOI.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

% **18.01.2024**

CM APPL. 3137/2024 -Ex.

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

W.P.(C) 709/2024 & CM APPL. 3136/2024 -Int. dir.

3. The present writ petition under Article 226 and 227 of the Constitution of India seeks to assail the order dated 19.12.2023 passed by the learned Central Administrative Tribunal in O.A. No. 2977/2023.
4. Learned counsel for the petitioners submits the impugned order is wholly perverse as learned Tribunal has failed to address the grievance raised by the petitioners that while carrying out promotions to the posts of Assistant Commissioner (Central Excise and Customs/JTS) the respondents were required to follow the 'vacancy based roster' in the ratio of 13:2:1 amongst Superintendent (Central Excise), Superintendent of Customs (Preventive) and Customs Appraisers which they have failed to follow. He further submits that the petitioners were compelled to approach the learned



Tribunal as the respondents, instead of following a ‘vacancy based roster’ was following a ‘post based roster’ for filling up the available vacancies posts of Assistant Commissioner (Central Excise and Customs/JTS).

5. Issue notice. Mr. Manish Mohan, Advocate accepts notice on behalf of the respondents and supports the impugned order. He submits that once the learned Tribunal after considering the rival submissions of both parties at length came to a categorical conclusion that the promotional avenues of the petitioners were not effected, it was justified in rejecting the O.A. He therefore contends that there is no infirmity in the impugned order.

6. Having considered the submissions of the learned counsel for the parties and perused the record, we are in agreement with Mr. Mohan that the learned Tribunal has observed in the impugned order that the promotional avenues of the petitioners were not effected by way of the prescription of the quota in the ratio of 13:2:1. However, a perusal of the impugned order which runs into 30 pages shows that the learned Tribunal has not even dealt with the only grievance of the petitioners that the vacancies which were required to be filled by using a ‘vacancy based roster’ were being filled by adopting a ‘post based roster’.

7. In the light of the aforesaid, when we find that the learned Tribunal has not dealt with the only grievance raised by the petitioners, we have no other option but to set aside the impugned order and remand the matter back to the learned Tribunal for fresh adjudication of the O.A. on merits. While passing a fresh order, the learned Tribunal will specifically deal with the grievance of the petitioners regarding a ‘post based roster’ being wrongly adopted by the respondent as against the vacancy.



8. List the O.A. before the learned Tribunal for directions on 7th February, 2024.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

JANUARY 18, 2024/ib