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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7486/2019

V. K. VASHISHT

..... Petitioner

Through: Mr.R.K.Shukla, Adv.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Subhrodeep Saha, Adv. for UOI.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

15.03.2024

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1. The present writ petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 05.04.2019 passed by the learned Central Administrative Tribunal (Tribunal) in O.A. No.1090/2019. Vide the impugned order, the learned Tribunal has dismissed the original application preferred by the petitioner seeking directions to the respondent to hold a review DPC to consider him for promotion to the post of Director on the basis of the retrospective seniority granted to him on the post of Deputy Secretary w.e.f. 16.10.2007.
2. We find that on 21.11.2022, this Court had, after considering the submissions of the parties at some length, granted time to learned counsel for the respondent to obtain instructions as to why a review



DPC for the post of Director could not be held.

3. Today, he submits that since as on date there are no vacancies of Director, a review DPC cannot be held at this stage. We are, however, unable to appreciate this plea as we find that the question before this Court is not as to whether there are any available vacancies of Director at this stage but as to whether any DPC for promotion to the post of Director was held after the petitioner had fulfilled the eligibility criteria for promotion to the post of Director by reckoning his seniority as Deputy Director w.e.f. 16.07.2007. This consideration has to be with reference to all such DPCs as may have been held from the date of petitioner's eligibility for promotion as Directors to the date of his superannuation i.e. 30.09.2012.
4. Having perused the impugned order, we find that the learned Tribunal has failed to appreciate this aspect and therefore, set aside the impugned order by directing the respondent to hold review DPCs for the post of Director *vis-à-vis* the DPC which may have been held for the said post from the date when the petitioner became eligible by reckoning his seniority w.e.f. 16.07.2007 till his superannuation. The review DPCs in terms of this order will be held within six weeks. It is, however, made clear that upon holding the review DPCs, in case, it is found that the petitioner was higher in merit than the person who may have already been granted promotion to the post of Director, the said promotion will not be disturbed at this stage but the petitioner will be granted notional benefits of the promotion to the post of Director from the due date. It is, however, made clear that no back wages will be payable to the petitioner on this count but he will be entitled to



receive appropriately revised retiral dues.

5. The petition is, accordingly, disposed of in the aforesaid terms.

REKHA PALLI, J

RAJNISH BHATNAGAR, J

MARCH 15, 2024/kk