$~95

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

\+ **W.P.(C) 7559/2024, CM APPL. 31474-75/2024 & CM APPL. 40053/2024**

UNION OF INDIA AND ORS. .....Petitioners

Through: Mr. Kirtiman Singh, CGSC with Mr. Varun Pratap Singh, Mr. Waize Ali Noor and Mr. Varun Rajawat, Advocates. Mr. Aditya Nath Mishra, Superintendent

versus

MANISH KUMAR GAUTAM AND ORS. .....Respondents

Through: Ms. Sriparna Chatterjee and Mr. S. Chatterjee, Advocates.
Mr. Ankur Chibber, Advocate.

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE GIRISH KATHPALIA

O R D E R

% **23.07.2024**

1. It is fairly pointed out by learned counsel for the parties that in paragraph 3.1 of the impugned order, the learned Central Administrative Tribunal (hereinafter referred to as "Tribunal") referred to the Recruitment Rules of 2015 which are applicable for the promotion of Tax Assistant to the post of Executive Assistant as per the Central Excise & Customs Department Executive Assistant (Group-B Non-Gazetted posts) Recruitment Rules, 2015. For the promotion as Executive Assistant, 10 years of regular service is required in the grade of Tax Assistant in PB-1, Rs.5200-20200 with Grade Pay of Rs.2400/- (now Level-4 Rs.25,500-81,100/- in the pay matrix). However, in paragraph 5.1.1, it is observed that as on date, Rules

for regulating the method of recruitment to the post of Executive Assistant (Group 'B', Non-Gazetted, Ministerial Posts) as notified on 31.10.2022 were in force.

2. In paragraph 6.3, it is observed that based on the amendments and merger of cadre firstly, the Tax Assistants in merged cadre, an individual inter-se-seniority of all merged Directorate posts in the grade of Group 'B' and Group 'C' ought to be drawn, taking into account seniors who shall also be considered in consonance with notification dated 01.08.2023.

3. Further, perusal of the record reveals that on the last date i.e. 24.05.2024 learned counsel for the petitioners sought time to obtain instructions as to whether any person who was not a Tax Assistant as on 28.09.2015, has been granted promotion as an Executive Assistant with only six years of his service by way of relaxation of the Central Excise & Customs Department Executive Assistant (Group-B Non-Gazetted posts) Recruitment Rules, 2015 and that too after passing of the impugned order. In compliance of the same, an affidavit has been filed wherein in para 2 it has been mentioned that the respondents herein are governed by Central Excise and Customs Department Executive Assistant (Group B Non-Gazetted posts) Recruitment Rules, 2015 dated 28.09.2015 which do not provide for merger of directorates and the same has been erroneously directed by the ld. Tribunal vide the impugned order. In the said para it has also been stated that while the respondents herein are governed by the aforementioned Rules and not by Central Board of Indirect Taxes and Central Board of Indirect Taxes and Customs Directorates Executive Assistant (Group 'B', Non Gazetted, Ministerial Posts) Recruitment Rules.

4. In view of above, as agreed by learned counsel for the parties, we

hereby remand the case back to learned Tribunal with a direction to decide the Original Application afresh after giving opportunities to both the parties.

5. The Registry of this court is directed to send all the relevant record to the Registrar of the Tribunal on 01.08.2024. Upon receipt of the same, the Registrar of the said Tribunal is directed to place the OA before the appropriate Bench.

6. We expect that the learned Tribunal will decide the OA within six weeks from receipt of this order.

7. It is made clear that order dated 18.10.2023 shall be subject to outcome of the OA to be decided by the learned Tribunal.

SURESH KUMAR KAIT, J

GIRISH KATHPALIA, J

JULY 23, 2024/*ry*