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

+ W.P.(C) 9121/2024 & CM APPL. 37291/2024 –Stay

UNION OF INDIA AND ORS.Petitioners

Through: Ms.Radhika Bishwajit Dubey, CGSC
with Ms.Drishti Rawal, Adv. & Mr.Akarshan
Agarwal, Cdr.

versus

LT CDR S MISHRA (RETD), NO. 40810-ZRespondent

Through: Ms.Sthavi Asthana, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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08.07.2024

1. The present writ petition seeks to assail the order dated 16.05.2023 passed by the learned Armed Forces Tribunal (Tribunal) in OA No.2458/2022. Vide the impugned order, the learned Tribunal has allowed the original application (OA) filed by the respondent by directing the petitioner to extend the benefits of the scale of Commander (Time Scale) to him after noticing that this benefit had been extended to all similarly placed employees w.e.f. 07.08.1999. The learned Tribunal was of the view that merely because the respondent had already superannuated from service before the said decision to grant the scale w.e.f. 07.08.1999 was taken, could not in itself be a ground to deny him the said benefit when it is an admitted position that he was in service as on 07.08.1999.
2. Having considered the submissions of learned counsel for the



petitioners and perused the record, we find no reason to differ with the views taken by the learned Tribunal. In our considered view, once the respondent was in service on the date with effect from which the said benefit was extended to all his batch mates, it was incumbent upon the petitioners themselves to extend the same to the respondent despite him having already superannuated instead of dragging him to Court.

3. At this stage, learned counsel for the petitioners submits that in the light of the aforesaid view taken by this Court, the petitioners will implement the impugned order at the earliest. She, however, submits that it may not be possible to extend the said benefit by 02.08.2024, on which date the contempt petition filed by the petitioner is next listed before this Court.
4. In the light of these circumstances and the assurance given by the petitioners to implement the impugned order, we extend the time for implementation thereof till 15.09.2024.
5. The petition is, accordingly, dismissed in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 8, 2024

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