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

% Judgment delivered on: 04.01.2024

+ W.P.(C) 99/2024

NAND KISHOR MEENA

..... Petitioner

versus

FOOD CORPORATION OF INDIA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Yashpal Singh, Advocate.

For the Respondent : Mr. Manoj, Standing Counsel for FCI with
Ms. Aparna Sinha, Advocate.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

(The proceeding has been conducted through Hybrid Mode)

1. This is a writ petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari or any other appropriate order or direction in the nature of Certiorari quashing the order dated 19.07.2023 compulsorily retiring the petitioner prematurely from service under Regulation 22(2) of the FCI Staff Regulation, 1971 and also to quash order dated 01.11.2023, whereby the representation made by the petitioner on 01.08.2023 was rejected and further, a writ



of Mandamus directing the respondent to re-instate the petitioner in services with all consequential benefits.

2. Learned counsel appearing for the parties jointly submit that in similar circumstances, the learned Single Judge of the High Court of Punjab and Haryana at Chandigarh had passed certain directions *vide* the order dated 22.12.2023 in CWP-26180-2023 captioned as “*Birendra Singh Chauhan And Ors. vs. Food Corporation of India And Ors.*” and batch matters.

3. Learned counsel jointly submit that the directions passed in the aforesaid judgment may also be passed by this Court for implementation.

4. Learned counsel for the petitioner submits that the petitioner would be satisfied in case similar directions are passed by this Court.

5. Learned Single Judge in the aforesaid order had passed directions in para No.17, which are as follows :-

“17. From the perusal of dossier which was put up before the Reviewing Committee, the noting/opinion of Reviewing Committee and Representation Committee, this Court finds that Reviewing Committee has not taken care of mandate and spirit of Clause IV of paragraph 10 of the circular dated 09.07.2021. It is settled law that circulars are not binding upon the courts, however, department is bound by its circulars. The circular dated 09.07.2021 was issued by FCI, thus, it is precluded to argue contrary to circular and was bound to meticulously follow the same.

In the dossier, the fact of promotion of employees in preceding 5 years was noticed, however, this fact has not been noticed either by Reviewing Committee or by Representation Committee. This fact in the light of Clause (iv) read with Clause (v) of paragraph 10 of circular dated 09.07.2021 needs to be considered, thus, the respondents are directed to re-consider case of all those petitioners who were promoted during 5 years preceding the date of premature retirement. It is made clear that this order would not be construed as



reinstatement of the said employees. The respondent as conceded, in the light of Clause (iv) and (v) of paragraph 10 of aforesaid circular, would decide fate of these petitioners within 8 weeks from today."

6. Since the petitioner is agreeable to similar directions, this Court is of the considered opinion that the respondent-FCI implement the said directions in the case of the present petitioner too.
7. The said directions be implemented and complied with within eight weeks from today.
8. The petitioner is permitted to submit a detailed representation to the respondent, which may apply the principles stated in the aforesaid order/judgment of the High Court of Punjab and Haryana at Chandigarh and dispose of the same in accordance with law and the aforesaid judgment. The said detailed representation may be filed within one week and the same be disposed of within eight weeks from its receipt.
9. The petition is disposed of in the above terms, without any orders as to costs.

TUSHAR RAO GEDELA, J

JANUARY 4, 2024/nd