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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5672/2017

UNION OF INDIA

..... Petitioner

Through: Ms. Arti Bansal, Adv.

versus

DHRUV KUMAR

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

06.05.2024

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1. The present writ petition under Articles 226 and 227 of the Constitution of India seeks to assail the order dated 02.08.2016 passed by the learned Central Administrative Tribunal (the Tribunal) in O.A. No. 3183/2014. Vide the impugned order, the learned Tribunal has partly allowed the Original Application (OA) filed by the respondent by directing the petitioner to reconsider his case for grant of MACP in accordance with the DoPT's instructions by ignoring his ACRs for the years 2005-06 and 2006-07, which were directed to be treated as *non est*, having been written beyond the prescribed timelines and that too without any endorsement from the Reviewing Officer.
2. Learned counsel for the petitioner submits that the impugned order is liable to be set aside as the learned Tribunal has failed to consider that the case of the respondent had already been re-considered in terms of the earlier order passed by the learned Tribunal in OA No.2829/2013. She, therefore, contends that there was no fresh cause for issuance of



directions by the learned Tribunal to re-consider the respondent's case for grant of MACP. She, therefore, prays that the impugned order be set aside.

3. On the other hand, the respondent who appears in person, supports the impugned order. He submits that once the learned Tribunal found that the aforesaid two ACRs of the respondent which were required to be ignored, had been taken into account while re-considering his case for MACP in compliance of the directions issued in OA No.2829/2013, the learned Tribunal was justified in directing the petitioner to re-consider his case after ignoring these ACRs.
4. Having considered the submissions of learned counsel for the parties and perused the impugned order as also the order passed by the learned Tribunal in the earlier OA filed by the respondent being OA No.2829/2013, we find that vide the order dated 10.03.2014 passed in the earlier OA, no such directions for ignoring any ACRs were given. The only directions to the petitioner were to communicate his below benchmark ACRs to the respondent with liberty to him to submit a representation for upgradation of these ACRs. It was only upon upgradation of these ACRs that the respondent was given the right for re-consideration of his case for grant of MACP.
5. It, however, emerges that after the copies of the ACRs for the years 2005-06 and 2006-07 were received by the respondent, he realised that same had not been written in accordance with the applicable guidelines and in any event, had not been endorsed by the Reviewing Officer. It is then that he again approached the learned Tribunal vide OA No.3183/2014, this time assailing these two ACRs, which



challenge has been accepted by the learned Tribunal. It is in these circumstances, that the learned Tribunal while holding these ACRs as *non est*, has directed the petitioner to re-consider the respondent's case for grant of MACP by ignoring these two ACRs.

6. In the light of the aforesaid, we are unable to accept the petitioner's plea that the respondent's case for grant of MACP having been already re-considered in compliance with the directions issued in OA No.2829/2013, there was no cause for the learned Tribunal to direct fresh re-consideration of his case. In the light of this finding in the impugned order that the two ACRs for the years 2005-06 and 2006-07 were required to be ignored, we find no infirmity with the directions issued by the learned Tribunal.
7. The writ petition being meritless is dismissed. The petitioner will now comply with the impugned order within a period of four weeks. Needless to state, in case the respondent is aggrieved by the fresh consideration of his case in terms of the impugned order, it will be open for the respondent so seek legal course as per law.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 6, 2024

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