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

Date of decision: 19.03.2025

\+ W.P.(C) 3381/2025

UNION OF INDIA AND ORS .....Petitioners

Through: Dr. Vijendra Singh Mahndiyan, CGSC with Mr. Abhilekh Tiwari, Adv.

versus

ASHOK K MANCHANDA .....Respondent

Through: Respondent (through VC).

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL.15984-85/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 3381/2025 & CM APPL. 15983/2025

2. This petition has been filed by the petitioner, challenging the Order dated 3.08.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in Original Application (OA) No. 1427/2017 titled '***Ashok K. Manchanda v. Union of India & Ors.***', partially allowing the OA filed by the respondent herein and directing the petitioner to take action to step up the pay of the respondent so as to remove the

anomaly wherein juniors were drawing more pay than the respondent.

3. Briefly stated, the respondent had approached the learned Tribunal by contending that he had been promoted to the rank of Commissioner of Income Tax *vide* the Order dated 23.06.2001. On promotion, he was transferred from the post of Additional CCIT, Faridabad and posted as Commissioner of Income Tax at Allahabad. The petitioner contended that he was not relieved by his supervisory officer at Faridabad due to administrative exigencies of office work and was finally relieved only on 29.06.2001. Since 30.06.2001 and 01.07.2001 were holidays, being Saturday and Sunday, he could join the new place of posting on 02.07.2001. As he could join only on 02.07.2001, he was denied the benefit of increment in terms of the Office Memorandum dated 19.03.2012.

4. The learned Tribunal, in its Impugned Order has held that as the delay of the petitioner in joining the new place of posting was due to office exigencies beyond his control, and also because the officers much junior to him were drawing more pay leading to a disparity, the respondent was entitled to the grant of advance increment. Aggrieved by the above direction, the petitioner has filed the present petition.

5. At the outset, we would note that the Impugned Order is dated 3.08.2023 and the present petition has been filed on or about 17.03.2025 i.e., after delay of almost two years. In between, as the learned Tribunal had not granted interest to the respondent on the arrears, the respondent had challenged the Impugned Order by way of a Writ Petition, being W.P.(C) 1423/2024, titled '***Ashok K Manchanda vs. Union of India & Ors.***' As recorded in the Order

dated 27.02.2024 of this Court, in the hearing of the said Writ Petition, the petitioner herein had submitted that the payment in terms of the Impugned Order has already been released to the respondent, therefore, giving an impression to this Court that the Impugned Order has been accepted by the petitioner. This Court, noting the above submissions, in fact, modified the Impugned Order by directing the petitioner to pay interest at the rate of 7.5% per annum on the amount payable to the respondent from the due date till the date of payment. The petitioner has challenged the Impugned Order passed by the learned Tribunal one year from the said Order as well. The present petition, therefore, is liable to be dismissed on the ground of delay and latches, however, we have also considered the contentions raised by the learned counsel for petitioner on merits as well.

6. The learned counsel for the petitioner submits that the finding of the learned Tribunal that the respondent was prevented from joining the new place of posting on his promotion due to office work and not being relieved by his supervisory officer at Faridabad, was not supported by any document.

7. We do not find any merit in the said contention. The respondent in the OA had made the following assertion:-

> *"4.3 That while many of the officers promoted vide promotion order dated 23.06.2001 immediately joined on promotion before the end of June, 2001 as Commissioners in their respective new places, the applicant, because of some urgent office work was not relieved by his supervisory officer before the last week-end of June 2001. That it was only in the evening of Friday i.e. 29th June, 2001 that the applicant was relieved*

from his duties at Faridabad."

8. In reply to the said assertion, the petitioners merely gave a vague answer as under:-

> *"Para 4.3: That the contents of Para 4.1 under reply to OA are matter of records, hence, needs no reply."*

9. Therefore, the assertion of the respondent that he was not relieved from his previous place of posting due to administrative work, was accepted by the petitioners due to non-traverse.

10. It is also not denied that officers much junior to the respondent ended up drawing higher pay than the respondent.

11. The learned Tribunal has, therefore, rightly considered the case of the respondent and passed the Impugned Order directing him to be granted increment at par with his juniors and in accordance with the Office Memorandum issued by the petitioners.

12. As we find that the respondent has been unnecessarily made to suffer two Writ Petitions, and specially keeping in view the statement that was made by the petitioner itself and as recorded in the Order dated 27.02.2025 of this Court that the payment in terms of the Impugned Order has been released to the respondent, which the respondent claims was an incorrect statement, the petitioners, if they have not already made the payment to the respondent in terms of the Impugned Order and the Order dated 27.02.2024 of this Court, shall make the said payment to the respondent within a period of four

weeks from today, failing which they shall pay an additional cost of Rs. 50,000/- to the respondent for the present petition, which we find to be completely meritless.

13. The petition along with the pending application are accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

MARCH 19, 2025
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Click here to check corrigendum, if any