



2024:DHC:9220-DB



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

*Reserved on: 04 October 2024*

*Pronounced on: 29 November 2024*

REVIEW PET.362/2024, CM APPLs.58300/2024, 58301/2024  
& 58302/2024

IN

+ W.P.(C) 2053/2020

BHAGWAN SINGH .....Petitioner  
Through: Mr. S.P. Sethi, Adv. with  
petitioner in person.

versus

UNION OF INDIA AND ORS. ....Respondents  
Through: Ms. Arunima Dwivedi, CGSC  
with Ms. Pinky Pawar and Mr. Aakash  
Pathak, Advs. For UOI.

**CORAM:**  
**HON'BLE MR. JUSTICE C.HARI SHANKAR**  
**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

**JUDGMENT**

% **29.11.2024**

**ANOOP KUMAR MENDIRATTA, J**

**CM APPL. 58301/2024 [For condonation of delay]**

1. For the reasons stated in the application, delay of 344 days in preferring the Review Petition is condoned.



2. Application is accordingly disposed of.

**CM APPL. 58302/2024 [Exemption]**

3. Exemption allowed subject to all just exemptions.

4. Application is accordingly disposed of.

**REVIEW PET.362/2024, CM APPL.58300/2024**

5. In brief, Writ Petition (C) 2053/2020 was preferred on behalf of the petitioner assailing order dated October 31, 2019 passed by Central Administrative Tribunal, Principal Bench, New Delhi<sup>1</sup>, whereby the O.A. 3751/2014 preferred on behalf of the petitioner was dismissed by the Tribunal for the reasons stated in para 6 as under:

*“6. In view of the facts and circumstances of the case referred to above, as the applicant being retired employee w.e.f. August 31, 2012, he was not entitled for actual promotion in view of the above extracted OM and as he was not promoted permanently to Group „A” Post, he is not entitled for DITS under para 334 of the above and IREM Volume-I and the said OA is devoid of merit.”*

6. The case of the petitioner before the Tribunal was, that while working in Group ‘B’ post, he became eligible for being promoted to Group ‘A’ post for the vacancies for the year 2010-11. Further, though the petitioner was found eligible by the DPC for being promoted to Group ‘A’ post but he was not granted the actual

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<sup>1</sup> “Tribunal” hereinafter



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promotion or notional promotion, only on the ground that the petitioner had superannuated on August 31, 2012. *Vide* judgment dated September 01, 2023, Writ Petition was allowed, setting aside order dated October 31, 2019 passed by the Tribunal, relying upon judgments passed by Co-ordinate Bench of this Court in **Union of India & Anr. v. P.G. George**<sup>2</sup>, **S. Narayanswamy v. Union of India & Ors.**<sup>3</sup> and **Jasbir Singh Gill v. Union of India**<sup>4</sup>. Accordingly, it was held that the petitioner shall be entitled to the benefits of increments notionally *w.e.f.* December 31, 2007 when the juniors to the petitioner were given the benefit. Also, petitioner was held entitled to arrears of retiral benefits based on the increments which he would get from December 31, 2007.

7. The Review Petition has been preferred on behalf of the respondents reiterating the contentions which were raised while disposing the Writ Petition.

8. Learned counsel for the respondents emphasizes that the petitioner was empanelled by the DPC against an UR vacancy of 2010-11 but he had no right for actual promotion, having already retired from service on August 31, 2012 *i.e.* before the DPC was held on December 19-21, 2012. The process followed is stated to be in accordance with extant instructions contained in DoP&T's O.M. dated October 12, 1998 and, as such, name of the petitioner could not be included in the order for promotion of the empanelled officers issued

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<sup>2</sup> W.P. (C) 4864/2010 decided on July 23, 2010

<sup>3</sup> (2012) 194 DLT 166 (DB)

<sup>4</sup> MANU/DE/2497/2014



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*vide* notification dated March 13, 2013. She further submits that juniors whose names are referred in the judgment dated September 01, 2023 passed by this Court were in service at the time of holding of DPC, while the petitioner had retired four months prior to holding of DPC for the vacancy year 2010-11. As such, it is contended that promotion could not have been granted to the petitioner prior to convening of DPC.

9. *Vide* judgment dated September 01, 2023, this Court noticed that juniors to the petitioner had got the benefit of increments *w.e.f.* December 31, 2007 though they were appointed to group 'A' post only *w.e.f.* December 31, 2012. As such, it was held by this Court that clear prejudice would be caused to the petitioner, as he had been denied benefit of promotion even on notional basis while juniors to the petitioner had got the benefit of increment and eligibility thereof *w.e.f.* 2007 (*i.e.* when the petitioner was in service).

10. In the facts and circumstances, there does not appear to be any reason to take a different view as held in **Union of India & Anr. v. P.G. George** (supra), **S. Narayanswamy v. Union of India & Ors.** (supra) as well as **Jasbir Singh Gill v. Union of India** (supra). The respondents have failed to demonstrate emergence of any new fact or point out error apparent on the face of record for allowing the review application. The power of review can be exercised for correction of a mistake but not to substitute a view. The factual and legal position as pointed out by learned counsel for the respondents was duly considered while disposing of the Writ Petition *vide* judgment dated September 01, 2023.



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Review Petition preferred on behalf of the respondents is without merits and is accordingly dismissed. Pending applications, if any, also stand disposed of.

**ANOOP KUMAR MENDIRATTA, J**

**C.HARI SHANKAR, J**

**NOVEMBER 29, 2024/sd**

*[Click here to check corrigendum, if any](#)*