CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/164/2020
WITH
MISC. APPLICATION NO. 291/421/2020,

ORIGINAL APPLICATION NO. 291/168/2020
WITH
MISC. APPLICATION NO. 291/420/2020
and
ORIGINAL APPLICATION NO. 291/169/2020
WITH
MISC. APPLICATION NO. 291/422/2020

Order reserved on 24.12.2020

DATE OF ORDER: 04.01.2021

CORAM

HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER
HON'BLE MRS. HINA P. SHAH, JUDICIAL MEMBER

OA No. 291/164/2020 with MA No. 291/421/2020

1. Ved Prakash Sharma S/o Shri Radhey Shayam Sharma, Aged-28 years, By Caste-Brahmin, R/o Quarter No. 132/II, Income Tax Colony, Jyoti Nagar, Jaipur-302005. Presently posted as Tax Assistant in the office of CIT (DR), ITAT, Jaipur.

2. Rohit Jain S/o Shri Vijay Raj Jain, Aged-31 years, By Caste-Jain, R/o H.No. 231, Ward No. 10, Jain Chowk, Nokha, Bikaner-334803. Presently posted as Tax Assistant in the office of Pr. CIT, Jaipur.

3. Puran Singh S/o Shri Amar Singh, Aged-31 years, By Caste-Bawari, R/o 6k, Dhaniya, Village-10 mod, Panchayat Samiti, Dabaliva, Kutub, Hanumangarh – 335801. Presently posted as Tax Assistant in the office of ITO (DDO) Sri Ganganagar.

4. Priyanka D/o Shri Jaipal, aged-28 years, By caste-Arora, R/o Q. No. 6/II, Income Tax Colony, Bikaner – 334001. Presently posted as Tax Assistant in the office of Pr. CIT, Bikaner.

....Applicants

Shri Punit Singhvi, counsel for applicants (through Video Conferencing).

VERSUS

1. Union of India, through the Secretary Ministry of Finance Government of India, New Delhi – 110001.

2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi – 110011.

3. The Principal Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwandas Road, Jaipur-302005.

....Respondents

Shri Gaurav Jain, counsel for respondents (through Video Conferencing).

OA No. 291/168/2020 with MA No. 291/420/2020

Radheshyam Meena S/o Shri Ramu Meena, Aged-28 years, By Caste-Meena, R/o Quarter No. 92/I, Income Tax Colony, Jyoti Nagar, Jaipur-302005. Presently posted as Multi Tasking Staff in the office of DGIT (Investigation), Jaipur. Group-C (M:800323407)

....Applicant

Shri Punit Singhvi, counsel for applicant (through Video Conferencing).

VERSUS

1. Union of India, through the Secretary Ministry of Finance Government of India, North Block, New Delhi – 110001.

2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi – 110011.

3. The Principal Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwandas Road, Jaipur-302005.

....Respondents

Shri Gaurav Jain, counsel for respondents (through Video Conferencing).

OA No. 291/169/2020 with MA No. 291/422/2020

1. Pankhee Lal Meena S/o Shri Payare Lal Meena, Aged-32 years, By Caste-Meena, R/o Quarter No. 126/II, Income Tax Colony, Jyoti Nagar, Jaipur-302005. Presently posted as Tax Assistant in the office of Additional CIT, Range-4, Jaipur. Group-C Mobile No. 9649669827.

2. C R Meena S/o Shri Kalu Ram Meena, Aged-38 years, By Caste-Meena, R/o Quarter No. 126/II, Income Tax Colony, Malviya Nagar, Jaipur-302017. Presently posted as Tax Assistant in the office of ITO, Ward-7(1), Jaipur. Group-C.

3. Manish Gupta S/o Shri Natti Lal Gupta, Aged-32, By Caste-Gupta, R/o 1 Gha-5, Manu Marg, Housing Board, Alwar-301001. Presently posted as Tax Assistant in the office of Pr. CIT, Alwar. Group-C.

....Applicants

Shri Punit Singhvi, counsel for applicants (through Video Conferencing).

VERSUS

1. Union of India, through the Secretary Ministry of Finance Government of India, North Block, New Delhi – 110001.

2. The Chairman, Central Board of Direct Taxes, North Block, New Delhi – 110011.

3. The Principal Chief Commissioner of Income Tax, Central Revenue Building, Statute Circle, Bhagwandas Road, Jaipur-302005.

....Respondents

Shri Gaurav Jain, counsel for respondents (through Video Conferencing).

ORDER

Per: DINESH SHARMA, ADMINISTRATIVE MEMBER

All the above mentioned Original Applications have been filed by a number of applicants raising the same issue and, hence, are being disposed of by this common order.

2. The applicants have stated that they came to Rajasthan Region from various other regions on the basis of inter charge transfers, following which they were placed at the bottom seniority in the Rajasthan Region. There have been a number of judgments by

the Courts/Tribunal, which have well settled the issue that though such inter charge transfer involves loss of seniority, they do not affect the eligibility for promotion based on the fulfilment of any criteria regarding experience gained or examination passed during the service of the employee in their previous charge. Despite applicants having made a request to consider their promotion against the vacancies of 2018/2019 and also against the current vacancies (2020), the department is not taking any action, nor responding to their requests. These Original Applications have been filed requesting for calling a review DPC for the vacancies of the past years and also to direct the respondents to consider their cases by a DPC to fill the vacancies for the year 2020, in the light of the judgment of the Hon'ble Supreme Court in the case of **Pratibha Rani & Ors. vs. Union of India & Ors**. (Civil Appeal No. 3792/2019) decided on 10.04.2019.

3. The respondents have replied denying the claims made by the applicants. They have questioned the jurisdiction of this Tribunal with respect to a few of the applicants, (Applicant Nos. 2 to 4 in OA No.

291/164/2020), who are posted in the parts of Rajasthan coming under the jurisdiction of Jodhpur Bench of this Tribunal. Regarding the prayer for review DPC's for the past years, it is stated that the matter is sub-judice before the Hon'ble Supreme Court in the case of **Jarnail Singh & Ors. vs. Lachhmi Narain Gupta & Ors.** [SLP (C) No. 30621/2011] and there is an order to maintain status quo in this regard. With respect to the prayer regarding conduct of DPC for the vacancies of the year 2020, the respondents have stated that the matter decided by the Hon'ble Supreme Court in the case of **Pratibha Rani** (supra) related to Delhi Region. There is another case decided by the Hon'ble Supreme Court in this matter (**Union of India and Ors. vs. Ramesh Kumar Panwar**, [SLP (C) No. 3479/2016), which relates to Rajasthan Region, and the Department is filing a review petition against the judgment of the Hon'ble Supreme Court in that case.

4. No rejoinder is filed by the applicants. The matter was finally heard through Video Conferencing on 15.12.2020 and 24.12.2020. Both the learned

counsels reiterated the arguments mentioned in their pleadings.

5. First, we go into the issue of jurisdiction with respect to a few of the applicants, who are not posted within the jurisdiction of this Tribunal. It is not disputed that the respondents fall within the jurisdiction of this Tribunal and part of the cause of action does come within this Bench's jurisdiction. It is also not disputed that the underlying issue is same with respect to all the applicants. Most likely, the same respondents will consider the issue of promotion of all these applicants, and maybe in the same DPC. Under this situation, asking a few of these applicants to approach another Bench of this Tribunal will not only be too technical, but also undesirable following common sense. The respondents are, in any case, expected to apply the rules commonly and evenly to all the similarly placed employees even if some of the applicants (e.g. Applicant Nos. 2 to 4 in OA No. 291/164/2020) may be, for the sake of argument, currently beyond the jurisdiction of this Bench of the Tribunal. We are, therefore, not inclined to accept the plea of the respondents about lack of jurisdiction.

6. After going through the pleadings and hearing the arguments, it is clear that, on the prayer regarding the conduct of DPC for the current year (2020), the department has not questioned the applicability of the decisions of the Hon'ble Supreme Court in the case of **Pratibha Rani** (supra) on the facts and issues raised in these Original Applications. They have questioned it only on the grounds of that case (Pratibha Rani's case) being that of Delhi Region and their filing (or having filed) a review petition against the decision in the case of **Ramesh Kumar Panwar** (supra) that related to Rajasthan Region. Thus, it is not disputed that the issue decided by the Hon'ble Supreme Court in the cases of **Pratibha Rani** (supra) and **Ramesh Kumar Panwar** (supra) covers the matter before us. It is highly unlikely that there could be two different rules or two different interpretations of the same rule on the same issue, in two Regions/circles of the same department, in the matters of promotions after inter-charge or inter-regional transfers. Even if it was to be so, the filing of review petition alone does not absolve the Department from their responsibility to implement an order of the Hon'ble Apex Court. Since the respondents have not

questioned the merit of the applicants' case on any other ground (other than the ground of their having filed a review petition before the Hon'ble Supreme Court), we have no hesitation in accepting the prayer of the applicants in this matter. We, therefore, direct the respondents to conduct the DPC for the year 2020, at the earliest possible, and consider the cases of all such applicants for promotion, who, even after being put at bottom seniority, have reached their turn for promotion, and who fulfil all other eligibility conditions for such promotion based on their present or past services in a different region.

7. Regarding review DPC's for the past years, the applicants have not filed any rejoinder denying the contention of the respondents that this matter is sub-judice in **Jarnail Singh's** case (supra) and there is an order of the Hon'ble Supreme Court for maintaining status quo. The learned counsel for the applicants also made no mention about this in his arguments. We, therefore, do not think it is necessary to decide on the merits of this issue (regarding review DPC for the past years) and leave it for the consideration of

the Department based on the outcome of this matter pending before the Hon'ble Apex Court.

8. All the aforesaid Original Applications are, thus, partly allowed and, accordingly, disposed of with the directions / observations made in Para Nos. 6 and 7 above. No order as to costs.

9. In view of the order passed in the Original Applications, all the pending Misc. Applications have rendered infructuous and are disposed of accordingly.

(HINA P. SHAH)
JUDICIAL MEMBER

(DINESH SHARMA)
ADMINISTRATIVE MEMBER

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