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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.120/2014

Date of Decision: 25.03.2019.

CORAM: R. VIJAYKUMAR, MEMBER (A)
R.N. SINGH, MEMBER (J)

Shri Prakash Tryambak Kengale,
 Age 60 years,
 Retd. Joint Commissioner of Income-Tax,
 R/at Mangal Prakash, Plot No.70,
 Mahatma Co-operative Soceity, Kothrud,
 Pune 411 029.

... *Applicant*

(By Advocate Shri S.V. Marne)

VERSUS

1. The Union of India, through
 The Secretary, Ministry of Finance,
 Department of Revenue, Central Board
 of Direct Taxes, North Block,
 New Delhi 110 001.

... *Respondent*

(By Advocate Shri N.K. Rajpurohit)

ORDER (Oral)

Per : R. Vijaykumar, Member (A)

This application has been filed by the
 Applicant under Section 19 of the
 Administrative Tribunals Act, 1985 seeking
 the following reliefs:

"8.a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same direct the respondents to count 4 years of eligibility service for promotion to the post of Deputy Commissioner of Income-Tax from the year 1999 and consequently promote the applicant to the post of Dy. Commissioner of Income-Tax w.e.f. 01.10.2003, Joint Commissioner of Income-Tax w.e.f. 15.06.2009 and Additional Commissioner of

Income-Tax w.e.f. 01.01.2012.

8.b) *This Hon'ble Tribunal may further be pleased to direct the respondents to pay to the applicant arrears of salary, allowances and pension arising out of ante-dating of promotions to the post of Dy. Commissioner of Income-Tax w.e.f. 1.10.2003, Joint Commissioner of Income-Tax w.e.f. 15.06.2009 and grant of promotion to the post of Additional Commissioner of Income-Tax w.e.f. 01.01.2012 along with interest @12% per annum.*

8.c) *Costs of the application be provided for.*

8.d) *Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."*

2. Heard Shri S.V. Marne, learned counsel for the Applicant and Shri N.K. Rajpurohit, learned counsel for the Respondent at length.

3. **MA No.155/2014** filed on 24.01.2014 was discussed with learned counsels. Learned counsel for the applicant refers to the decision in orders of this Tribunal in OA Nos.505/2009, 810/2011 and 57/2010 passed on 09.10.2013 at para 11 in which it is mentioned that an OA 502/2004 decided by the Jaipur Bench of this Tribunal had become final by being upheld by the Hon'ble High Court of Rajasthan and after dismissal of the SLP filed by the respondents by the Hon'ble Apex Court.

4. Further, in **WP No.4715/2011 in Union of India Vs. Amit Kumar Mitra**, the Hon'ble High Court of Delhi has affirmed the view of Hon'ble High Court of Rajasthan even at the stage when the Hon'ble High Court of Rajasthan has decided this matter in the case of S.K. Shukla and respondents in their letter No.F.No.A.35015/ 46/2006-Ad.VI dated 23.01.2007 directed all their officers across the country that they were awaiting the outcome of the SLP and benefit was granted to Shri Shukla subject to outcome and without prejudice to their stand in the SLP. They also directed that no action should be taken on any representation filed by various officers nor should it be forwarded to the Board until the matter is decided by the Hon'ble Apex Court. In the circumstances, no delay can be ascribed to the applicant in the present case and hence limitation cannot apply. Hence, **MA 155/2014 is allowed** for the above reasons.

5. It is ascertained that in respect of the issue raised in the OA, the issue is identical to a previous order of this

Tribunal in OA No.505/2009, etc which was upheld by the Hon'ble High Court of Bombay in WP No.1604/2014, 1605/2014 & 1539/2014 on decided on 23.07.2014 and is awaiting consideration of the Hon'ble Apex Court in SLP under CC No.21061/2015. Both the learned counsels agree that the parties to the present OA shall be bound by the decision of the Hon'ble Apex Court in the aforesaid SLP under CC No.21061/2015 which has been linked with CA No.7173/2015 and other connected matters.

6. In the aforesaid terms, the OA is disposed of. No order as to costs.

(R.N. Singh)
Member (J)

(R.Vijaykumar)
Member (A)

dm.

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