

\$~27 & 32 (common order)

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

Date of decision: 12th February 2020

+ **W.P.(C) 1599/2020**

THE PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX &
ORS. Petitioners

Through: Mr. Ashim Sood, CGSC with
Mr. Rhythm B., & Mr. Armaan
Pratap Singh, Advocates

versus

DEEPAK & ORS. Respondents

Through:

+ **W.P.(C) 1622/2020**

THE PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX &
ORS. Petitioners

Through: Mr. Ashim Sood, CGSC with
Mr. Rhythm B., & Mr. Armaan
Pratap Singh, Advocates

versus

MEENAKSHI KATHPAL & ORS. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE G.S. SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

CM APPL.5596/2020 (exemption) in W.P.(C) 1599/2020

CM APPL.5686/2020 (exemption) in W.P.(C) 1622/2020

Exemption allowed, subject to all just exceptions.

Applications stand disposed of.

CM APPL.5597/2020 (for additional documents) in W.P.(C) 1599/2020
CM APPL.5687/2020 (for additional documents) in W.P.(C) 1622/2020

Allowed. Additional documents are taken on record.

Applications stand disposed of.

W.P.(C) 1599/2020 and 5595/2020 (for interim relief)
W.P.(C) 1622/2020 and 5685/2020 (for interim relief)

The present petition is directed against order dated 31.10.2019 passed by the Central Administrative Tribunal ('Tribunal', for short).

2. It turns-out that both the petitions are covered by order dated 16.04.2019 passed by a Co-ordinate Bench of this court in W.P. (C) No.8063/2017 titled ***Union of India & Ors. vs. Manglalzom Gangte & Ors.***, decided on 21.09.2017 which was followed in ***Union of India & Ors. vs. Sh. Nitin & Ors.***, W.P.(C) No.3940/2019, decided on 16.04.2019. We extract paras 3 to 6 of judgment dated 16.04.2019 in W.P.(C) No.3940 of 2019 as under:-

*"3. The submission of learned counsel for the petitioner is that the Tribunal has placed reliance on the decision in **Union of India and Ors. v. Chet Ram Meena And Ors**, W.P.(C.) No. 6368/2015, decided on 29.10.2015. While deciding **Chet Ram Meena** (supra), this Court had placed reliance on the decision of the High Court of Rajasthan in **Union of India V. Ramesh Kumar Panwar & Anr.**, Civil W.P. No. 5148/2013, decided on 26.05.2015. The submission of the petitioner Union of India is, and even when we decided **Manglalzom Gangte** (supra) was that the issue was under consideration before the Supreme Court in CC No. 1691/2016 and that the operation of the decision of the high Court had been stayed on 01.02.2016. This Court rejected the said submission by observing as follows:*

“However, we are not impressed by this argument as we find that the Division Bench while deciding Chet Ram Meena (supra) has taken into account several other decisions including the decision of the Supreme Court itself in Union of India & Ors. vs. C.N. Ponnapan, (1996)1 SCC 524 wherein Supreme Court held as follows:-

“..... .

The service rendered by an employee at the place from where he was transferred on compassionate grounds is regular service. It is no different from the service rendered at the place where he is transferred. Both the periods are taken into account for the purpose of leave and retrial benefits. The fact that as a result of transfer he is placed at the bottom of the seniority list at the place of transfer does not wipe out his service at the place from where he was transferred. The said service, being regular service in the grade, has to be taken into account as part of his experience for the purpose of eligibility for promotion and it cannot be ignored only on the ground that it was not rendered at the place where he has been transferred. In our opinion, the Tribunal has rightly held that the service held at the place from where the employee has been transferred has to be counted as experience for the purpose of eligibility for promotion at the place where he has been transferred.”

*Other decisions to the same effect, taken note of by the Division Bench, were rendered in the case of **Union of India & Anr. Vs. N. Bhat**, 2003 (9) Scale 517, **Renu Mullick vs. Union of India & Anr.**, (1994) 1 SCC 373 and **Raksha Mantri and Anr. Vs. V.M. Joseph**, (1998) 5 SCC 305.*

For the aforesaid reasons, we find no reason to interfere with the impugned order and the same is dismissed."

*4. Learned counsel for the petitioner submits that even the decision in **Chet Ram Meena** (supra) has been stayed by the Supreme Court on 12.01.2018 in SLP (C) No. 9643/2016.*

*5. On the other hand, learned counsel for the respondent – Mr. Bhardwaj makes a statement that the civil appeal preferred before the Supreme Court from the decision of the Rajasthan High Court in **Ramesh Kumar Panwar** (supra) has since been dismissed by the Supreme Court on 10.04.2019. It is also pointed out that the SLP preferred from our decision in **Manglalzom Gangte** (supra) has also been dismissed by the Supreme Court, and the same has been implemented.*

*6. In fact, it is pointed that the decision of this Court in **Pratibha Rani & Ors. v. Union of India & Ors.**, W.P.(C.) No. 11959/2018, decided on 02.11.2018 was assailed before the Supreme Court by the petitioners in that case, and the Supreme Court has allowed the said appeal by placing reliance on the decision in **C.N. Ponnapan** (supra).*

3. By reason of the above, we see no reason to take a different view than that taken in the above two writ petitions. Resultantly, both the writ petitions are dismissed.

4. Pending applications also stand disposed of.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 12, 2020/vk