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

\+ W.P.(C) 5414/2024 & CM APPL. 22355/2024 -Stay

UNION OF INDIA AND ORS ..... Petitioners

Through: Mr. Bhagwan Swarup Shukla, CGSC with Mr. Sarvan Kumar and Ms. Sunita Shukla, Advs.

versus

ANIRUDH KAUSHIK AND ANR ..... Respondents

Through:

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

<u>O R D E R</u>

% 13.05.2024

1. The present petition seeks to assail the order dated 06.01.2023 passed by the learned Central Administrative Tribunal in O.A.1531/2020. Vide the impugned order, the learned Tribunal has allowed the O.A. filed by the respondents and has consequently directed the petitioners to consider the respondents for promotion to the post of Income Tax Inspector from the date, their juniors were promoted i.e. w.e.f. 01.01.2019, if they are otherwise found suitable.

2. On the last date, we had adjourned the matter to enable the learned counsel for the petitioners to obtain instructions regarding the effect of the decision of the Apex Court in ***R Prabha Devi v. Government of India*** (1988) 2 SCC 233, which has been relied upon by the learned Tribunal.

3. Today, he submits that a Co-ordinate Bench of this Court in W.P.(C)

1738/2017 titled as ***Union of India & Anr vs Himanshu Prabhakar & Ors*** and in W.P.(C) 4711/ 2017 titled as ***Harvesh Kumar & Ors vs Himanshu Prabhakar & Ors*** has already held that the decision in ***R Prabha Devi(supra)*** cannot be read to suggest that it would be mandatory for every department to grant relaxation in terms of OM dated 25.03.1996.

4. On the petitioner taking steps, issue notice to the respondents though all permissible modes. Counter-affidavit be filed within six weeks. Rejoinder thereto, if any, be filed within four weeks thereafter.

5. Till the next date of hearing, operation of the impugned order will remain stayed.

6. List on 07.10.2024.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 13, 2024/rr