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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 13879/2024, CM APPL. 58086/2024 & CM APPL.
58087/2024

UNION OF INDIA THROUGH SECRETARY & ANR.

.....Petitioners

Through: Mr. Vijay Joshi and Mr.
Kuldeep Singh, Advs.

versus

NAVEEN TOMAR

.....Respondent

Through: Mr. M. Shankar Shrivastava,
Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

ORDER

% **03.10.2024**

CM APPL. 58087/2024 [Exemption]

1. Exemption allowed, subject to all just exceptions.

W.P.(C) 13879/2024

2. The contention of Mr. Joshi, learned Counsel for the petitioner is that the learned Tribunal has erred in failing to take into account the fact that the posts of which the respondent had been directed to hold additional charge were in the same cadre/line of promotion as the post which was being held by him. Ergo, submits Mr. Joshi, the respondent would not be entitled to the benefit of FR 49(iii).



3. Issue notice to show cause as to why rule *nisi* be not issued.
4. Notice is accepted on behalf of the respondent by Mr. Shrivastava.
5. Counter-affidavit, if any, be filed within four weeks with advance copy to learned Counsel for the petitioner who may file rejoinder thereto within four weeks thereof.

CM APPL. 58086/2024 [Stay]

6. Issue notice, returnable on 29 January 2025.
7. Notice is accepted on behalf of the respondent by Mr. Shrivastava.
8. We find that this writ petition has been instituted nearly a year after the impugned order has been passed. The respondent is a retired government servant. Mr. Shrivastava has given an undertaking, on instructions, that, in the event of the respondent failing in the present writ petition, the amount disbursed to him as per the impugned order shall be returned by the respondent to the petitioner forthwith.
9. Accordingly, qua for the prayer for stay, we are not inclined to stay the directions contained in para 15 of the impugned order. However, should the respondent be found to be entitled to any additional payment consequent on the exercise of re-consideration envisaged by para 15 of the impugned order, the said payment would be made to the respondent subject to the undertaking given by Mr.



Shrivastava in court today.

10. Re-notify on 29 January 2025.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 3, 2024

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