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

Date of decision: 25.07.2025

+ W.P.(C) 10809/2025

UNION OF INDIA AND ORS.

.....Petitioners

Through: Mr. Ankur Mittal, CGSC with
Mr. Aviraj Pandey and Mr.
Hrithik Saxena, Advocates.

versus

SHAILENDRA KUMAR SHARMA GROUP A

.....Respondent

Through: Mr. Ashim Shridhar and Mr. S.
D. Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

CM APPL. 44720-21/2025 (Exemptions)

1. Allowed, subject to all just exceptions.

CM APPL. 44722/2025

2. This is an application seeking permission to file extended synopsis and list of dates.

3. For the reasons stated in the application, the same is allowed.

4. The application stands disposed of.

W.P.(C) 10809/2025 & CM APPL. 44719/2025, CM APPL. 44723/2025

5. This petition has filed challenging the Order dated 27.03.2025



passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as 'Tribunal') in O.A. No. 2138/2024, titled ***Shailendra Kumar Sharma v. Ministry of Railways and Ors.***, allowing the OA filed by the respondent and directing the petitioners to re-fix the basic pay of the respondent, allowing the benefits of pay protection of the pay drawn by the respondent, and directing to grant all consequential benefits within a period of three months, including arrears from the date of receipt of the certified copy of the Order.

6. To give a brief background of the facts in which the present petition arises, the respondent joined NTPC Limited as Executive Trainee, 2006 Batch (ET-2006), against an offer of appointment on 29.09.2006. Having cleared the Engineering Services Examination, the respondent resigned from NTPC Limited with effect from 27.02.2010, to join Indian Railway Service of Mechanical Engineers (IRSME), after tendering due intimation and request to the competent authority. He joined IRSME on 03.03.2010.

7. Claiming pay protection, he represented to the petitioners, however, the same was refused by an Order dated 14.03.2024. Aggrieved thereof, the respondent filed the above OA before the Tribunal.

8. The learned Tribunal allowed the OA placing reliance on the Judgments on this Court in ***Sanjog Kapoor v. Union of India (UOI) and Others***, 2007 (6) SLR 76; in ***Nagendra Kumar Jha v. Union of India and Anr.***, 2016 SCC OnLine Del 72, and in ***Union of India & Anr. v. Abhay Kumar***, 2022 SCC OnLine Del 619.



9. The learned counsel for the petitioners submits that the learned Tribunal has erred in not appreciating that the grant of pay protection can be allowed only where the officer is selected through an interview process. He places reliance on the Office Memorandum dated 10.07.1998 in this regard.

10. We are unable to agree with the submission made by learned counsel for the petitioners.

11. This Court in *Abhay Kumar* (supra), while rejecting a similar plea of the petitioners had, in fact, expressed its concern that in spite of repeated Judgments holding that the OM dated 10.07.1998 is arbitrary and in violation of Article 14 of the Constitution of India, the petitioners still continue to rely upon the same for denying benefit of pay protection to their employees and drag these employees to Court. It appears that this concern and warning has not made any difference to the petitioners. We are dismayed at this conduct.

12. Be that as it may, the issue raised by the petitioners is no longer *res-integra* and is covered by the above referred Judgments.

13. We, therefore, find no merit in the present petition. The same is, accordingly, dismissed. The pending applications also stand disposed of.

NAVIN CHAWLA, J

MADHU JAIN, J

JULY 25, 2025/ssc /ik