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

\+ W.P.(C) 10306/2016

UNION OF INDIA & ORS ..... Petitioners
Through Mr.Kirtiman Singh, Adv. with Ms.Shruti Dutt, Adv.

versus

DR. NARAYAN RAO BATTU & ANR ..... Respondents
Through Mr.Robin Majumder, Adv. with Ms.Shreemoyee Bhattacharjee, Adv. for R-1.
Ms.Devik Singh, Adv. with Mr.Naresh Kaushik, Adv. for R-2/UPSC.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% 27.03.2019

We have heard the submissions of learned counsel for the parties. Having heard the submissions and considered the decisions relied upon by them, the conclusion we have reached is that the impugned order of the Tribunal cannot be sustained. We are, therefore, inclined to set aside the impugned order dated 18.04.2016. We are of the view that the Tribunal has erred in concluding that the old pension scheme which was discontinued after 31.12.2003, was applicable to the respondent and not the new pension scheme which was introduced on 1.1.2004 onwards. We shall separately record our detailed reasons for the same. At the same time, it is for the petitioner

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to explain as to how the benefit of added years of service under Rule 30 of the CCS (Pension) Rules, 1972, is proposed to be given to the respondent considering the fact that the respondent is governed by the new pension scheme and his contribution under the said Scheme would begin only from the date when he joins the service which was in the year 2005. It is for the petitioner to explain as to how they propose to fulfil their representation of giving benefit of added years of service to the respondent.

During the course of arguments, we have put it to Mr.Kirtiman Singh, learned counsel for the petitioner, that one way could be that the Government contributes the share of the employee for the said additional period (which can be upto five years) so that when he eventually superannuates, he is able to derive the benefit of added service as provided under Rule 30 of the CCS (Pension) Rules. Let the petitioner take a decision in this regard and file an affidavit disclosing the manner in which the benefit of added years of service could be given to the respondent. The affidavit be filed within three weeks, as prayed. In the meantime, we shall place on record the reasons for the aforesaid decision.

List on 06.05.2019.

VIPIN SANGHI, J

REKHA PALLI, J

MARCH 27, 2019/aa

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