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

24+ W.P.(C) 1305/2011

RAVINDER KUMAR ..... Petitioner

Through: Mr. R.B. Bansal, Mr. S. Mohanty, Mr. D.D. Yadav & Mr. Lalit Dhamija, Advocates.

Versus

STAFF SELECTION COMMISSION ..... Respondent

Through: Mr. Jatan Singh, CGSC with Mr. Ashish Kumar Srivastava, Adv.

AND

25+ W.P.(C) 1309/2011

POOJA YADAV ..... Petitioner

Through: Mr. R.B. Bansal, Mr. S. Mohanty, Mr. D.D. Yadav & Mr. Lalit Dhamija, Advocates.

Versus

STAFF SELECTION COMMISSION ..... Respondent

Through: Mr. Jatan Singh, CGSC with Mr. Ashish Kumar Srivastava, Adv.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **25.05.2011**

1. This order is in continuation of the order dated 26th April, 2011.

2. The counsel for the petitioners has contended that notwithstanding the subject matter of the writ petition relating/concerning recruitment, the Central Administrative Tribunal (CAT) would not have jurisdiction because

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By:AMULYA

the relief is claimed against the respondent which is a mere recruiting agency and not against the employer.

3. No merit is found in the said contention; merely because instead of impleading the employer, the recruiting agency is impleaded cannot oust the jurisdiction of CAT.

4. The counsel for the petitioners has also referred to the following judgments:

(i) ***Union of India Vs. Shiv Charan Sharma*** 2007 IX AD (Delhi) 296; with reference to the last part of para 4 of the judgment, it is contended that it is only a person holding a civil post who has the right to approach the Tribunal. It is contended that since the petitioner is not holding any post till now, he will have no right.

The said judgment is being read out of context and a line here or there cannot be looked up as laying down the law.

(ii) ***Hari Singh Vs. Staff Selection Commission*** 2010 V AD (Delhi) 599; though the matter concerned recruitment but admittedly the question of jurisdiction was not examined and hence this judgment cannot be said to a precedent on the matter in controversy.

(iii) ***Smt. Meena Vs. Union of India*** 108 (2003) DLT 116; the said case was concerning compassionate appointment and with respect to which CAT was held to have no jurisdiction.

(iv) ***Union of India Vs. Chotelal*** AIR 1999 SC 376; the Tribunal was held to have no jurisdiction for the reason of the dispute not relating to any civil post.

(v) ***Phool Badan Tiwari Vs. Union of India*** AIR 2003 SC 2353 again the petitioners were held to be not employees but employed only on part time basis and hence Tribunal was held not to have jurisdiction.

5. On the contrary, the counsel for the respondent has referred to ***Ms. Nighat Parveen Vs. Union of India*** 1995 II AD (Delhi) 616 where the Division Bench held that the definition of "service matter" is very wide and even the process of selection for service would be governed by the word "service matter". The counsel for the respondent points out that in the said case also recruiting agency was Union Public Service Commission (UPSC).

6. The writ petitions are therefore dismissed with liberty to the petitioners to approach the CAT including on the grounds urged in these writ petitions.

No order as to costs.

RAJIV SAHAI ENDLAW, J

MAY 25, 2011
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