



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: July 31, 2023

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+ W.P.(C) 9987/2023
AMIT KUMAR

..... Petitioner

Through: Mr. Sanjay Dubey and Mr. Rajat
Goyal, Advocates.

versus

UNION OF INDIA THROUGH ITS SECRETARY AND
ANR.

..... Respondents

Through: Mr. N.K. Aggarwal, Sr. Panel Counsel
with Ms. Sanjana Antil, Advocate for
R-1 & R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (Oral)

CM APPL. 38481/2023 (exmp.)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

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1. This petition has been filed by the petitioner challenging the order dated May 24, 2023, which was passed by the Central Administrative Tribunal (in short '*Tribunal*') in C.P. No. 54/2023 in O.A. No. 1392/2020, whereby the Tribunal has closed the contempt petition by stating in paragraphs 3 & 4 as under:

"3. We believe in the statement made by the learned counsel

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for the respondents. However, we direct them to file compliance affidavit in this behalf, with an advance copy to the other side, within two working days from the date of receipt of a copy of this order.

4. The C.P stands closed with the above observation. There shall be no order as to costs.”

2. The submission of learned counsel for the petitioner is that the Tribunal could not have closed the contempt petition when it had given directions to the respondents to file a compliance affidavit. This according to him, because it is the case of the petitioner that in the order dated December 21, 2022, the respondents have reiterated their stand taken by it, while arguing the Original Application, inasmuch as there is no provision/practice for rechecking of transcripts of typing test or any other paper of examination. He states, when there was a clear direction of the Tribunal in its order dated September 23, 2022, reiterating the same ground, is not a compliance. He also states, it was the case of the petitioner before the Tribunal that with regard to the same examination of 2017, revaluation of typing test was done by the respondents in six cases, there is no reason why the same yardstick could not have been followed in the case of the petitioner.

3. Mr. Aggarwal, on the other hand, would justify the order of the Tribunal by drawing our attention to paragraph no. 6 of the order dated December 21, 2022, wherein the respondents stated that the mistakes committed by the petitioner in the typing test were 7.43%, which is more than the cut off percentage of 7. In that regard, it is his submission that the order is a speaking order and the petitioner should have challenged this order of December 21, 2022 by way of a separate proceedings and not in contempt



proceedings.

4. We are unable to agree with Mr. Aggarwal for the simple reason that the Tribunal while disposing of the contempt petition without adverting to the stand taken by the parties, has closed the contempt petition by directing the respondents to file a compliance affidavit. Infact, it should have first ensured that the compliance affidavit has come on record and satisfied itself that the order dated September 23, 2022 has been complied with by the respondents.

5. Accordingly, we set aside the order dated May 24, 2023, revive the contempt petition being C.P. 54/2023 in O.A. 1392/2020 on the board of the Tribunal for a fresh consideration by ensuring the compliance affidavit is filed by the respondents and also by considering the stand taken by the petitioner in the contempt petition.

6. For this purpose, we list the matter before the Tribunal on August 16, 2023. Liberty is granted to the counsel for the parties to file a copy of this order in the registry of the Tribunal by way of an affidavit. It is made clear that we have not expressed any opinion on the merit of the contentions of the counsel of parties.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

JULY 31, 2023/akc